

[21st March 1922]

## II

## DEMANDS FOR GRANTS.

## DEMAND X—CIVIL JUSTICE.

The hon. Mr. K. SRINIVASA AYYANGAR :—"Mr. President, I move for a grant not exceeding Rs. 45.79 lakhs for Civil Justice."

*Motion 408.*

Rai Bahadur T. M. NARASIMHACHARLU :—"Sir, there seems to be a mistake in the motion as printed. The printed agenda shows: '408. To reduce the allotment of Rs. 98,535 for High Court Registrars by Rs. 50,000.'"

"I find from the typed copy of my original amendment which I sent to the Council office, that I did not mention this figure, Rs. 98,535. My object was to reduce this Rs. 50,000 from the lump allotment mentioned at page 86, summary."

The hon. the PRESIDENT :—"What is it that the hon. Member wants to do now?"

Rai Bahadur T. M. NARASIMHACHARLU :—"I want to make the motion as follows:—

408. *To reduce by Rs. 50,000 the provision made in detailed account No. 24-A. Administration of Justice, High Court, Registrar.*"

The hon. the PRESIDENT :—"The hon. Member may move it in that form."

The hon. Mr. K. SRINIVASA AYYANGAR :—"I note, Sir, that the next motion apparently is what the hon. Member wants to move."

Rai Bahadur T. M. NARASIMHACHARLU :—"The next motion is for omitting the lump provision on account of the revision of salaries of deputy and assistant registrars and their establishment. That is a separate heading. Now, I want to omit the words 'of Rs. 98,535' from motion No. 408, and to move the amended motion as follows: 'To reduce Rs. 50,000 from the lump provision of Rs. 7,39,900.'"

"That figure is to be found at page 86 in the summary."

The hon. the PRESIDENT :—"I take it that the hon. Member wants, instead of the motion as on the paper, to move it in the following form: 'To reduce the allotment of Rs. 7,39,900 for Registrar by Rs. 50,000.' The hon. Member can do so unless some objection is raised."

No objection having been raised, Rai Bahadur T. M. NARASIMHACHARLU proceeded :—"My object is to reduce the extra provision that is made for the next year by Rs. 50,000. In the revised estimate it will be noticed that the provision under this item was only Rs. 6,85,000. I do not understand why an extra provision is made for the year 1922-23. That is why I move that the allotment of Rs. 7,39,900 be reduced by Rs. 50,000."

The hon. Mr. K. SRINIVASA AYYANGAR :—"Mr. President, you see how embarrassing it is for me to trace item by item the various items which make up this total without my having had the slightest inkling as to what the hon. Member wants. The motion as tabled and as I had it was 'To reduce the allotment of Rs. 98,535 for High Court registrars by Rs. 50,000.' On that basis, Sir, I had my note made up and investigated whether registrars are necessary, whether we can end those

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registrars and carry on the work without any registrars or their establishment. You will note that Rs. 98,535 covers the Registrar of the High Court, one deputy registrar, original side, two assistant registrars, original side, one assistant registrar, appellate side, one sub-assistant registrar, appellate side, one deputy registrar, appellate side, the official referee, crown prosecutor, one editor of the Madras Law Reports and three junior reporters. To that is added a sum of Rs. 100 per mensem for the secretary to the Rule Committee. I was wondering which particular officer out of this lot could go out without detriment to the work of the office. At present, Sir, I am unable to trace item by item within the limit of time which is at my disposal and find out what these other figures represent. I have just glanced through them, and one of them at the end is printing and translation charges amounting to Rs. 1.90 lakhs as against Rs. 1.86 lakhs in the current year. My attention is drawn by the hon. the Home Member who has been good enough to look into these papers during the time I was speaking, to the entry at page 88, against copyist establishment, which also shows an increase, but I do not know what it means. We have got a budget estimate of Rs. 55,422 for printing and translation charges as well. With regard to this, all I can say is that every rupee that is paid on account of translation and printing as well as of copies is returned in the shape of income which is derived from the parties for doing that work. So, Sir, I am not in a position to make any effective answer, because I did not know what the hon. Member wanted, and all that I can say is that apparently and so far as I can see, there is Rs. 50,000 extra. But that extra expenditure is got from the parties and litigants. I am also told that the whole of the extra is non-votable."

Rai Bahadur T. M. NARASIMHACHARLU:—"Sir, I quite realize that the hon. Member was somewhat handicapped by the mistake committed somewhere."

The hon. the PRESIDENT:—"By the hon. Member himself. That is what I was going to say, because I have now got the original of the notice sent in by the hon. Member which reads: 'To reduce by Rs. 50,000 the provision made in Detailed Account No. 24-A. Administration of Justice, High Court, Registrar at page 86'. As the hon. Member did not say from what allotment it was proposed to make the reduction, the Secretary took it to be a reduction from the allotment under the head 'Registrar'."

Rai Bahadur T. M. NARASIMHACHARLU:—"No, Sir. Even that would be a mistake, because the heading is 'Registrars' and it goes from page 86 to 87."

The hon. the PRESIDENT:—"Did the hon. Member specify the page of the budget?"

Rai Bahadur T. M. NARASIMHACHARLU:—"I specified page 86, Sir, and stated that it was at the top."

The hon. the PRESIDENT:—"What of course the Secretary should have done was to have got the motion ruled out of order as the mover failed to specify the allotment that he wanted to reduce. The Secretary apparently took the trouble to supply the omission on the part of the hon. Member. The hon. Member now turns round and says that this was not the motion he intended. The motion having been already made in the amended form to meet the hon. Member's wishes, he had better reply now."



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Rai Bahadur T. M. NARASIMHACHARLU :—“I thank the office for making such a mistake. Anyhow I quite see the difficulty of the hon. the Law Member. However, my object is simply this, that as there was an increased provision made this year I thought it could be reduced and wanted to find out, after getting all the particulars, how it could be reduced. I think those who are dealing with departments are better able to adjust it and distribute it than those like myself who are outside the department. Thirdly, the hon. the Law Member pointed out that in the copyist establishment there is an increased provision over the revised estimate. I submit there must be some mistake in the revised estimate figures because copyist department never varies, and in the budget estimate for 1921-22 there is a provision of Rs. 82,778, and as against that there is only a provision of Rs. 60,061 made for the budget year. The figure Rs. 13,000 in the revised estimate, I think may be due to some mistake because we find that in 1922-23, there was one superintendent who is repeated again for the budget year, as also the 3 examiners, 3 readers, 9 copyists and 2 servants. Therefore I do not at all think that for the current year there was only an expenditure of Rs. 13,000. It must be that Rs. 13,000 is not the entire amount that

11-15 a.m. should represent the expenditure under this head in the revised estimate. Now my object is not to allow extra expenditure for the next year and it was with that object that I bring forward this motion. At the same time I am surprised to find, Sir,—of course I do not question His Excellency's order here,—that these superintendents, examiners and copyists are all put down under non-votable items.”

The hon. Mr. K. SRINIVASA AYYANGAR :—“Of course, they are all paid out of the funds that are collected by the High Court on a levy under the statutory authority.”

Rai Bahadur T. M. NARASIMHACHARLU :—“I beg to withdraw the motion.”

The motion was then by leave withdrawn.

#### *Motions 409 and 410.*

The following motions were not made :—

Rai Bahadur T. M. NARASIMHACHARLU :—

409. *To omit the allotment of Rs. 50,000 for revision of salaries of deputy and assistant registrars and establishment.*

Mr. T. SOMASUNDARA MUDALIYAR :—

410. *To omit the allotment of Rs. 50,000 for revision of salaries of deputy and assistant registrars and establishment.*

#### *Motion 411.*

Mr. R. SRINIVASA AYYANGAR :—“Mr. President, the motion I beg leave to move is—

411. *To reduce the allotment of Rs. 50,000 for revision of salaries of deputy and assistant registrars and establishment by Rs. 25,000.*

“On turning to page 86 of the budget estimate, hon. Members will find the following : ‘Lump provision on account of revision of salaries of deputy and assistant registrars and establishment—Rs. 50,000.’ Turning their

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eyes lower down they will be pleased to see that there are two deputy registrars and three assistant registrars, all on an incremental time scale. And the total figure as per the budget under discussion is Rs. 98,535. But according to the revised estimate for 1921-22, the total cost is Rs. 93,000, and the House will now be pleased to perceive an excess of Rs. 5,535 over and above the revised estimate for the current year. And with respect to the Rs. 50,000 which I want to have cut down by a moiety, we have not been told how much of it is to go towards the increased salaries proposed to the deputy and assistant registrars. In the absence of any information one way or the other I take it that a decent part of it is likely to go towards the proposals to augment their salaries. If that be so, I should like to protest against that. At the bottom of page 86, five officers have been placed on the incremental scale, and so far as the House is concerned that incremental scale appears to have been saddled on us by the Public Service Commission. I remember having read in the note of the Finance Secretary, that nobody is responsible for the incremental scale except the Public Service Commission. In view of the fact that there is an incremental scale year by year there is no reason why we should further augment their salaries. I have got every sympathy for the establishment and it is my sympathy for the establishment that led me not to move for the total omission of this item altogether but only to have the item abated by 50 per cent. In view of the various figures that we are considering, in view of the disparity existing between the revised estimate and the budget estimate for 1922-23, and in view of the fact that there is an incremental scale here, there is no reason why we should give them any further now. With these words I make the motion."

The hon. Mr. K. SRINIVASA AYYANGAR:—"Mr. President, the scale of salaries for the High Court establishments is settled under the Letters Patent by the Chief Justice, subject to the confirmation of the Governor in Council. Under the Letters Patent the Chief Justice is to fix pay which he considers reasonable. Now, Sir, in one or two of these cases an incremental scale was fixed long long ago, I believe in 1896, and there has been no recent revision and the High Court has been proposing a revision in regard to the salaries of the deputy registrar, original side, assistant registrars and the deputy registrar, appellate side and for the establishments. A great deal of correspondence has been going on between the Chief Justice and the Government and the Chief Justice finally insisted upon having the scale now accepted. Unless the Government had reason to say that it was unreasonable, his recommendations must, I consider, be accepted. The establishment has had no increase either after the Public Service Commission or the Salaries Committee sent their report on account of the increased cost of living. We have been corresponding with the High Court with regard to these matters and there is no reason why, when in every other department there has been an increase, the judicial branch alone should not have any increase. Out of the Rs. 50,000 which is provided for in the budget, not more than Rs. 5,000 will go for the gazetted officers, the rest of it is required for the establishments, viz., translators and other officers in the High Court who are doing work there, more or less technical for the purpose of enabling the judges to perform their functions properly. Now the deputy registrar's pay is Rs. 1,050 and he is paid another Rs. 100 for performing the duties of the chief clerk of the Insolvency Court. In other provinces I believe there are special officers for that purpose on heavy salaries while in Madras the



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deputy registrar of the original side has to do the duties of the chief clerk of the Insolvency Court and is paid only Rs. 100. The High Court thinks that that salary is inadequate and that it should be at least Rs. 1,200. Then, Sir, with regard to the deputy registrar, appellate side, the scale now is Rs. 700 rising to Rs. 1,000. That was found again to be insufficient and the Chief Justice now insists—and when I say he insists, I do not disagree with him, for every pay proposed by him is amply deserved—on the revision of that pay too. The assistant registrar now gets Rs. 460—575. The scale now fixed by the Chief Justice is Rs. 500—30—650. And likewise in other cases also there have been proposals for increase. And as I said this would not come up to more than Rs. 5,000.”

Mr. T. SOMASUNDARA MUDALIYAR :—“ Mr. President, the provision of Rs. 50,000 for increasing the pay of the High Court deputy and assistant registrars and establishments ought to be reduced. I think that the pay of the deputy registrar and the assistant registrars compares very favourably with the pay of officers doing similar work in the other departments of the Government. The pay of the original side deputy registrar is Rs. 1,150 and that of the deputy registrar, appellate side, is Rs. 800 to Rs. 1,150 and the present pay is, I think, about Rs. 900 and it cannot be said that the salaries are inadequate. The assistant registrars are also receiving handsome salaries and, I submit, do not require any increase. It may perhaps be that the clerks in the establishment drawing Rs. 100 and less have a hard time of it in these days of high prices. But we have to remember that the economic stress at the present time is very great and every person whether a Government servant or private individual is suffering hardships, and distress seems to be general. I want the Government to recognize that the private individual is as much entitled to the consideration and sympathy of the Government as the official. They form but component parts of the State and any attempt to benefit one at the cost of the other cannot be said to be well advised. We are faced with a deficit budget and any increase in the pay of any individual whether merited or unmerited will only stir up popular discontent and fresh taxation and increase of pay will be considered to be the first fruits of the popular Government which is said to have been introduced. I would therefore strongly deprecate the increase of salary for anybody especially in this year and I strongly support the motion for reduction.”

Sriman BISWANATH DAS Mahasaya :—“ Sir, the hon. the Law Member was kind enough to quote certain extracts from the Letters Patent and seems to place very much emphasis on the word ‘shall’. He holds that the Chief Justice is the proper person to fix the salary as he thinks reasonable, and should I add just? Sir, if the salary that he thinks reasonable and just and necessary should be passed by this House as it comes and if this House has only to say ‘yes’ to all that he thinks reasonable, I think very little useful purpose could be served by having a discussion on the subject. But I for one should think that the onus is on the hon. the Law Member. Unless the hon. the Law Member justifies the so-called reasonable enhanced salary of the deputy registrar and such other officers, it is unreasonable for us to vote for the demand and I should frankly confess that the explanations given by the hon. the Law Member are not at all satisfactory. And I must add also in this case that the officials had their incremental salaries twice. Which one, I should like to know, is the present proposal? It also passes my comprehension why these officers kept themselves aloof from the agitation

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that was set up for the increment of salaries of all officials. Why and how the hon. the Chief Justice did not find it his duty to recommend to the Government the necessity of enhancing the scale of salary paid to these officials last year."

The hon. Mr. K. SRINIVASA AYYANGAR:—"The Chief Justice has been under correspondence with regard to this matter ever since the question of raising the salary arose. It is owing to the delay in furnishing the correspondence that this trouble has arisen."

Sriman BISWANATH DAS Mahasayo:—"I am very sorry the correspondence has extended over a year. However, unless satisfactory explanation is given I for one would ask the House to vote for the motion."

11-30 a.m. The hon. Sir LIONEL DAVIDSON:—"I am not responsible for Civil Justice now, Sir, and I do not recollect very clearly the details in regard to this case, but the broad outlines are familiar to me. They are as follow: The proposals regarding this establishment in the High Court came forward much about the same time as the proposals for the revision of other establishments. It is not the case that the clerks in the High Court kept themselves aloof from clamour in the matter of the additions to their pay. On the contrary, my recollection is that they were prominent in the forefront of the clamour for increased pay, and that an official on the High Court establishment as president of the Non-Gazetted Officers' Association was agitating in season and out of season, sometimes without good cause, and sometimes not entirely without good cause. I do not know exactly when the application for increase of pay for this establishment reached the Government, but it certainly must have been during the time when Civil Justice was in my portfolio, and my recollection is that the greater part of the delay is the outcome of the very earnest endeavours made by Government to cut down the original proposals for increase which led to much correspondence, and delayed a settlement of this case until quite recently. The fullest details available have been placed before the Cabinet, which recognised that there was a good case, though fully alive to the very grave necessity for economy.

"Mr. Somasundara Mudaliyar complained that it was very hard that the benefits to these Government servants should come out of the pockets of others suffering equally with them from the economic stress of to-day. I venture to think that he overlooks one fact; namely, that higher prices press much harder on the man who is in receipt of a fixed salary than they do on one who derives his income from land. Now those who depend upon the land directly or indirectly form, I think, the bulk of the tax-paying population of the Presidency, and the landholder, the pattadar, unquestionably derives great benefit from the rise in price of the grain which is grown on his land, while the coolie who works under him derives indirect benefit in the shape of wages very frequently consisting of a definite number of measures of grain. Thus, both these classes benefit to an extent which must go far to counteract the economic hardships of the day. But there is nothing corresponding to that measure of benefit in the case of Government servants like those on the High Court establishment whose pay is fixed and has not been raised at all proportionately to the increase in the cost of living. If, Sir, this addition were disallowed—and I may draw attention to the fact that something like 95 per cent of the relief provided will accrue to the lower paid staff on the High Court establishment and not to the two or three



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officers of the Registrar grade—if we disallowed this increase, those affected would have very just grounds for discontent on the ground of differentiation in the treatment of their case as compared with other Government servants of the same class, whose claims for additions to income were pressed to a decision at an earlier stage, whereas I venture earnestly to deprecate any differentiation.”

MR. R. SRINIVASA AYYANGAR :—“ The hon. the Law Member has told us just now that out of this Rs. 50,000 only Rs. 5,000 represents the amount that is intended to go to increase the salary of these officers and that the balance of Rs. 45,000 will go towards the establishment. As far as possible, personally I am against any conflict between the High Court on the one side and the Council on the other. In view of that fact and in view of the information that has just been given to us by the hon. the Law Member that the learned Chief Justice is very keen about it I do not see my way to press this motion. I beg leave to withdraw it.”

The motion was by leave withdrawn.

*Motion 412.*

RAO BAHADUR T. BALAJI RAO NAYUDU :—“ I beg to make the following motion :—

412. *To reduce the allotment of Rs. 4,98,239 for the High Court by Rs. 1,18,000.*

“ The current year's revised estimate figure was Rs. 12,21,000 whereas for the coming year it has come up to Rs. 13,39,000. However, I can only suggest to reduce only a portion of the votable items which come to Rs. 4,98,239 against Rs. 4,48,900 in the year 1921-22 according to the revised estimate. The increase is apparently due to increase of salaries and some additional expenditure, of Rs. 50,000 of which the previous speaker spoke. Whatever it may be, I submit to the House that in a year of this kind, when we are running the administration with a minus balance, I do not see any necessity for increasing the salaries of any officers. Even in the case of those officers, whose salaries have been raised already there was a resolution passed in this House that their salaries should be again reduced ; at any rate the resolution was that the salaries of all officers drawing more than Rs. 500 should be reduced by a third. That resolution has not still been given effect to. The hon. the Finance Member was pleased to say that he had made a reduction to the amount of Rs. 23 lakhs in the establishment charges under various heads and that for administration of justice it was Rs. 3.55 lakhs. It may be contended that whatever is spent for administration of justice is earned by the same department. If that is so, there are several other departments like that. It cannot be said that because the department earns, the salaries of its officers should be raised to the limit of its earnings. The savings are still people's money as in the case of land revenue and other items. This year's budget debate in my humble opinion is of a lesser consequence than that of last year. It is only of a small reduction here and there. So the House should consider seriously the matter, why they cannot put off these increases of salaries till next year or until we wipe off the deficit. Till then, things may be allowed to go on as they are. So I request the House to vote for this motion for reducing by Rs. 1,18,000 the allotment for law and justice.”

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The hon. Mr. K. SRINIVASA AYYANGAR :—" Mr. President, I have already dealt with the question of the emergency of the revision of salaries of the judicial establishment, because they alone are now standing out of the increase sanctioned with regard to all other establishment. On the other hand, the judicial establishment should have had more favourable consideration.

" Statements have been made in this House that if the judicial department is paying its way you ought to make really a profit out of it for the purpose of supplementing the general revenues for general purposes. In connexion with this, I wish to draw attention to a statement from a leading authority in England; we have more or less modelled our system of administration of justice on the English system. Dealing with the increase in the rates of fees levied in the Supreme Court, the English law journal says, 'to this increase in the Supreme Court fees no reasonable objection can be urged'; (there the increase was in some cases 50 per cent and in other cases 100 per cent); 'it is of course ridiculous' (I emphasise the word) 'for anybody to suggest that litigants should pay their way. A man who secures an authoritative interpretation of an Act of Parliament renders more than a service to himself. The administration of justice is one of the chief functions of the State; but the deficit in the High Court owing largely to the increased salary of officials has been growing. During the past financial year it grew from £220,000 to £350,000' (that is for the High Court alone); 'a large part of the deficit is attributable to' etc., etc., then, 'nevertheless litigants are farther from paying their way than ever they were.' I wanted to draw the attention of the House to that. It is considered in all civilised countries to be an elementary function of the State to administer justice and to pay for it out of the general revenue. What we get by way of fees should be merely to some extent to supplement an allotment from general revenues or to cover a deficit. On the other hand, here litigants paid under the head of court-fees, till recently, all that was necessary for the purpose of paying these establishments. There has been a deficit now, and I asked the House in consequence of the peculiar circumstances of our finances to cover all the deficit so that justice may pay its way, and the House has been good enough to grant the increase in the court-fees. There will be no justification, now for any decrease in expenditure.

" Now, Sir, with regard to this reduction of Rs. 1,18,000, the difference between the revised estimate for 1921-22 and the budget estimate for 1922-23 is a little less than Rs. 50,000 and that Rs. 50,000 is required for the purpose of the revision I have stated. That proposition has been debated and after debate my friend Mr. R. Srinivasa Ayyangar withdrew his resolution to reduce that sum by Rs. 25,000. Is there any justification now for bringing it again and to go further and move a reduction of Rs. 1,18,000. Is this the justice which this House is going to mete out to judicial officers?"

Rao Bahadur T. BALAJI RAO NAYUDU :—" There is a surplus from the income. Why should not the charges be reduced and the public helped regarding litigation instead of utilizing this money for the establishment and maintenance of courts? You may take what is actually required and remit the rest so that the people may be benefited. I think I should press the motion."

The motion was then put and declared lost.



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11-45 a.m.

Rao Bahadur T. Balaji Rao Nayudu demanded a poll which was taken with the following result:—

*Ayes.*

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| 1. Mr. S. R. Y. Ankinedu Prasad Bahadur. | 7. Mr. A. T. Muttukumaraswami Chettiar. |
| 2. Dr. M. Appalanarasayya Nayudu         | 8. Mr. C. Natesa Mudaliyar.             |
| 3. Rao Bahadur V. Appaswami Vandayar.    | 9. Mr. V. Pakkiriswami Pillai.          |
| 4. " P. C. Etirajulu Nayudu.             | 10. Mr. T. Somasundara Mudaliyar.       |
| 5. " K. Gopalakrishnayya.                | 11. Mr. T. C. Tangavelu Pillai.         |
| 6. " T. Balaji Rao Nayudu.               | 12. Mr. A. T. Palmer.                   |

*Noes.*

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| 1. The hon. Sir Lionel Davidson.                      | 20. Diwan Bahadur M. Krishnan Nayar.           |
| 2. " Sir Charles Todhunter.                           | 21. Mr. C. V. Venkataramana Ayyangar.          |
| 3. " Khan Bahadur Muhammad Habib-ullah Sahib Bahadur. | 22. Sriman Biswanath Das Mahasayo.             |
| 4. " Mr. K. Srinivasa Ayyangar.                       | 23. Mr. S. Muttumanicka Achari.                |
| 5. " Mr. P. Ramarayaningar.                           | 24. Rai Bahadur T. M. Narasimhacharlu.         |
| 6. " Rai Bahadur K. Venkata Nayudu.                   | 25. Rao Bahadur C. V. S. Narasimha Raju.       |
| 7. " Rao Bahadur A. P. Patro.                         | 26. Mr. K. V. Ramachari.                       |
| 8. Mr. T. E. Moir.                                    | 27. Rao Sabib U. Rama Rao.                     |
| 9. Mr. F. J. Richards.                                | 28. Mr. A. Ranganatha Mudaliyar.               |
| 10. Mr. C. W. E. Cotton.                              | 29. Sriman Sasi Dhushana Rath Mahasayo.        |
| 11. Mr. R. Littlehailes.                              | 30. Mr. T. Sivasankaram Pillai.                |
| 12. Mr. E. Periyannayagam.                            | 31. Mr. R. Srinivasa Ayyangar.                 |
| 13. Mr. A. Ramaswami Mudaliyar.                       | 32. Mr. M. Suryanarayana Pantulu.              |
| 14. Mr. S. T. Shanmukham Pillai.                      | 33. Mr. S. Arpudasiwami Udaiyar.               |
| 15. Rao Bahadur T. A. Ramalinga Chettiar.             | 34. Mr. K. Prabhakaran Tampam.                 |
| 16. Mr. C. Ramalinga Reddi.                           | 35. Khan Bahadur Muhammad Usman Sahib Bahadur. |
| 17. Mr. B. Muniswami Nayudu.                          | 36. Mr. R. T. Kesavulu Pillai.                 |
| 18. Rao Bahadur A. Ramayya Punja.                     | 37. Sir James Simpson.                         |
| 19. Diwan Bahadur R. Venkataratnam Nayudu.            | 38. Diwan Bahadur Govindoss Chathurbhujados.   |

The motion was lost, 12 having voted *for* and 38 *against*.

Mr. C. W. E. COTTON:—"I like to have a ruling, Sir, on the point whether it is open to any hon. Member to enter the House before the result of the poll is announced."

The hon. the PRESIDENT:—"It is certainly not open to any hon. Member to come in while a poll is being taken. But once a poll has been taken and the counting is being done by the Secretary, I do not think the Secretary is likely to be disturbed by the hon. Members coming in."

*Motions 413 to 417.\**

The following motions were not made:—

Rao Bahadur A. S. KRISHNA RAO PANTULU:—

413. *To reduce the allotment of Rs. 4,98,239 for High Court by Rs. 75,000.*

Mr. B. MUNISWAMI NAYUDU:—

414. *To reduce the allotment of Rs. 4,98,239 for High Court by Rs. 10,000.*

Rai Bahadur T. M. NARASIMHACHARLU:—

415. *To reduce the allotment of Rs. 60,000 for fees to pleaders in civil cases by Rs. 7,000.*

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Rai Bahadur T. M. NARASIMHACHARLU :—

416. *To reduce the allotment of Rs. 2,30,000 for fees to pleaders in criminal cases by Rs. 30,000.*

Rao Bahadur K. GOPALAKRISHNAYYA :—

417. *To reduce the allotment of Rs. 1,56,000 for temporary sub-judges by Rs. 75,000.*

*Motion 418.*

Rao Bahadur P. C. ETIRAJULU NAYUDU :—“ Mr. President, Sir, I beg to make the following motion :—

418. *To reduce the allotment of Rs. 1,56,000 for temporary sub-judges by Rs. 35,000.*

“ Sir, I find that is the amount under temporary sub-judges. Last year there was no provision shown in the budget for the temporary sub-judges. But this year there is a provision of Rs. 1,56,000 out of which I propose a reduction of Rs. 35,000. It may be said that these courts are constituted simply for the purpose of clearing arrears. It may be a fact but it may also be due to other causes. Especially in a lean year like this it is highly necessary that we should reduce our expenses as far as possible. Arrears can be cleared if adjournments are not so readily granted as now and this must be insisted upon. It should also be insisted upon that these judges should attend courts more regularly and punctually. Adjournments on the slightest excuse are being granted now and when there are more courts than one it is quite natural for lawyers to ask for adjournments on various pretexts. By this reduction I do not think, Sir, the litigants or the Government will suffer. Therefore, I request this House to reduce only Rs. 35,000 from the amount provided in the budget.”

The hon. Mr. K. SRINIVASA AYYANGAR :—“ Mr. President, I was unable to understand where the difference between last year and this year arose. In the last year you had the same number of sub-judges as this year. That is due to the fact that we compelled the High Court practically to reduce their needs and restrict them to the number that existed last year. In the course of last year the High Court wanted more subordinate courts to do the work and for want of funds we could not sanction it. This year again they have asked for more courts than now exist and we have said ‘ You must economise ; we are not going to grant them ’. So far as the work is concerned, the position stands thus : In 1919 there were 2,754 new suits filed on the original side, 22,864 small causes and the arrears of pending original suits were 3,259. In 1920, 2,940 suits were filed on the original side and 24,652 small causes, i.e., 2,000 more than last year, and the pendency of original suits rose to 3,872. By the courtesy of the High Court I had the figures for 1921 and the figures stand thus ; last year, that is the current year, 3,506 suits were filed, that is nearly 600 beyond what was filed in 1920 and in the small causes 25,677, i.e., a thousand more than what was tried in the previous year. And the pendency at the end of this year will be 4,420, i.e., about 600 more than what it was in 1920. These courts are functioning and functioning well in the disposal of these pending suits and they have been doing most arduous work and it must be said that the value of the suits before these courts are high and they are generally much more difficult to try than suits in the other courts. I draw attention to another matter. The duration of suits last year in the subordinate courts



[Mr. K. Srinivasa Ayyangar]

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increased from 490 in 1919 to 503 days. Sir, imagine the monstrous injustice of a suit pending for 503 days and that is only an average and yet this House requires that even the existing temporary courts should be abolished. What do you think will be done without these sub-courts for clearing up the arrears? Seeing that the file of suits is increasing year by year, what this House ought to have done is to have insisted upon my having more courts than there are now in order that the arrears may be cleared within a reasonable time and elementary justice done to the parties."

Mr. C. NATESA MUDALIYAR :—" Mr. President, Sir, I strongly support this motion. When this Council was voting for grants for various departments, I was wondering why the various heads of departments showed a studied disregard for the resolutions of the Council on communal representation being observed in public service. They show not only a passive defiance to these resolutions but the subordinate officials under them display an active oppression over the subordinates for whom these communal resolutions were intended. These subordinates are mostly drawn from the masses and their discontent reaches the masses easily. The embers of discontent are smouldering. These very officials who are indirectly responsible for the smouldering of these embers fan the fire when opportunity arises and inflame the masses against the Government. Thus all our troubles come. Sir, these heads of departments go against the resolutions of the Council unmindful of the fact that the Council has the control of the purse."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" I rise to a point of order as to the relevancy of this so far as the reduction of the budget provision is concerned."

Mr. C. NATESA MUDALIYAR :—" I am coming to it, Sir. Unmindful of the fact that we have the power of the purse, these heads of departments slight us. Let us therefore show them that we have the power to starve them. If these temporary sub-judges are not to be recruited according to the resolutions of this Council, why should we pass this grant? And of the heads of departments who disregard our resolutions, the Judicial Department comes first and the Revenue next. Now, we have some hope in the present constitution of the High Court and let us hope that they will carry out the communal resolutions of this Council to the letter. Unless these posts are recruited according to the resolutions passed in this House I will strongly support the motion."

Rai Bahadur T. M. NARASIMHACHARLU :—" Sir, I think to reduce the number of temporary courts will be only following the policy of 'penny wise and pound foolish'. My hon. Friend, Mr. Natesa Mudaliyar, is fighting very hard on communal basis. I appeal to him in the same way and tell him that the majority of litigants are non-Brahmans. Not to entertain these courts but to abolish them at once will be to postpone indefinitely the trial of these cases. That means a number of adjournments without any benefit to the litigant public. It means so much cost to the litigant public for they have to incur unnecessary expenditure at each adjournment and at the same time they do not derive any benefit out of the adjournments because the suits will not come up for trial. The sessions courts are, unfortunately, engaged in the trial of sessions cases and consequently they have no time to go into the trial of these several original suits and that is the reason why several additional temporary sub-courts have been established and I think, Sir, that in spite of the establishment of these temporary sub-courts the file has increased even

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in a light district like Cuddapah for instance. Much more will be the case with the other districts where litigation is always on the increase. Consequently, I submit, Sir, that to do away with the temporary sub-courts at present will be to indefinitely postpone the decision of these suits which would mean heavy loss to the litigants. Therefore, I submit, Sir, as I began by saying, let us not enter into this penny wise and pound foolish policy."

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—“ Mr. President, I also  
12 noon. rise to oppose this motion. We have just now passed an Act to increase our court-fees. Over and over again the Privy

Council has stated that here in India suits are pending for an unconscionable length of time and that every attempt should be made to reduce the pendency as quickly as possible. The attention of the Government has also been drawn to the state of arrears of suits and the necessity for taking immediate steps to dispose of them was also urged upon the Government. The figures that have been quoted by the hon. the Law Member would go to show that it would be absolutely impossible for the permanent courts to get through the large arrears of work. In the district from which I come the figures for last year will show that there are yet about 310 suits pending trial, and even if a temporary sub-court is established from the 1st of April, I think it will take three or four years before the file can be brought to the normal. Not only this, the file of courts in general has been mounting up in geometrical proportion. Some ten years back, the number of suits filed in a court was only about 50 or 60 per year and it has now gone up to 300 and above in some districts. On the other hand, the Government are getting increased revenue owing to the increase in the number of suits. The number of suits has increased three or four-fold and we would not be justified in cutting down the number of courts. The pendency is so great that clients are put to very great expenses on account of the constant adjournments of suits that are made for want of sufficient number of courts. I know several cases in which parties have to bring lots of people with them, spend a lot of money, go back to their own village and again return for the next adjournment. This state of affairs ought to change and we ought to provide for a speedy disposal of cases in our courts. This cannot be done unless temporary courts are sanctioned and established whenever necessity arises. I know, Sir, there is a complaint from some quarters, and even from the legal profession, that the presiding judges can do more work than they are doing. This complaint is urged specially with reference to District Courts. The District Judge is supposed to do a multiplicity of work and the original suits are filed in subordinate courts. The Judges do not devote much time for the civil work and it is not fair to say that temporary courts should not be established owing to that.

“ For these reasons, Sir, I very strongly oppose this motion.”

Mr. S. ARPUDASWAMI UDAIYAR :—“ Mr. President, permit me to read a few facts and figures culled from the statistics of civil courts. The hon. the Law Member has read, Sir, certain figures which will show, I think, only one side of the case. First the total number of suits instituted in the Presidency during the year 1920 was 496,433 against 511,029 suits in 1919, i.e., 14,596 less than in the previous year. Secondly, 12 districts showed a decrease: South Arcot (—7,650), North and South Malabar (—3,497) and (—6,496) respectively, Kistna (—3,003) the latter showing the largest decrease. The decrease of suits before civil courts exclusive of village courts is most



[Mr. S. Arpudaswami Udaiyar]

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noticeable in North Malabar, the figure being (—7,159). Thirdly, in the district munsifs' courts other than those for the agency tracts 119,550 ordinary suits were instituted or 3,614 less than in the previous year. There was a decrease of 18,718 in the number of small cause suits instituted. There was thus a decrease of 22,332 in the total number of both classes of suits. These figures, Sir, disclose the desirability of the extension to some at least of the temporary courts of the policy of retrenchment which has resulted in the abolition of the following court, viz., the Additional District Munsif's Court of Kurnool, the Additional District Munsif's Court of Periyakulam and second Additional District Munsif's Court of Madura. Fourthly, Anantapur is declared to be the least litigious district, not more than one suit being filed for every 222 persons. Fifthly, the total number of appeals preferred in 1920 was 143 less than in the previous year. Sixthly, in the Special Small Cause Courts 13,602 small cause suits were filed during the year as against 14,057 in the previous year. Thirteen thousand four hundred and fifteen suits were disposed of against 14,358 in the previous year leaving a pendency of 2,156 suits at the end of the year, against 1,848 at the end of 1919. From these figures, Sir, we gather that there is a decrease in the number of suits instituted before the courts, in the number of appeals preferred and in the number of small cause suits filed, while in the matter of disposal of cases, there is no marked improvement, no progress. This naturally raises the question whether there is adequate supervision of the work of these courts, whether the inspection of these courts is satisfactory. Now, Sir, I will read from page 9 of the report,—

'The District Judges of Anantapur, Bellary, Chingleput, Coimbatore, Cuddapah, Guntur, South Kanara, North Malabar, Nellore and Vizagapatam have inspected all their courts, while the District Judges of South Malabar and Tanjore have managed to inspect ten out of their numerous subordinate courts, and the District Judge of Kistna, eight out of nineteen. The District Judges of North and South Arcot, Kurnool, Madura, Salem and Tinnevely also failed to inspect half the courts in their district. The District Judges of North Arcot, Salem and Kurnool explain that they could not inspect more owing to the pressure of Sessions work, but the other District Judges do not give any explanation. No courts were inspected in North Arcot after the institution of the new District Court.'

"From these figures, Sir, we gather that with proper supervision and more effective control it will be possible to show greater economy in this branch of civil administration of justice."

Diwan Bahadur R. VENKATARATNAM NAYUDU :—"I move, Sir, that the question be now put."

The motion for the closure was put and lost.

Mr. R. SRINIVASA AYYANGAR :—"Sir, I am against this motion, and I shall briefly indicate my reasons. As it is, there are 20 temporary sub-courts now. In view of this Council having passed quite recently the amended Court-Fees Act, I am absolutely certain that the work of subordinate courts will show a tendency to increase at least by 40 per cent. There is nothing startling in the statement I make, and I shall be able to substantiate it by facts and figures.

"Now, as the Council is aware, so far as land suits are concerned under the existing state of things—I am not concerned with the proposed state of things—lands bearing an assessment of up to Rs. 600 on the basis indicated in the present Court-Fees Act can be adjudicated upon and suits relative thereto can be instituted in the munsif's court. Now, what is the effect of the amendment which we have recently passed? We have increased the

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[Mr. R. Srinivasa Ayyangar]

valuation for the purpose of court fee with the result that hereafter even suits relating to lands bearing an assessment of Rs. 300 and above will have to be instituted in the subordinate courts. The result of it will be that if we just look into the figures we find on an average each munsif's court being seized at least of ten cases a year with respect to lands bearing an assessment of over Rs. 300 and less than Rs. 600. That will represent the net saving with respect to each munsif's court under this head per year. Now, we all know that each subordinate court exercises territorial jurisdiction over at least two taluks and on an average it exercises jurisdiction over five munsifs' courts. The effect of the Court Fees Act just passed will be that it will set free on an average about 40 suits that were hitherto being filed in the munsifs' courts in the aggregate and these 40 suits will go to swell and to mount up the file of the sub-courts. Now, coming to South Arcot, the file in the South Arcot sub-court at present is about 90 such suits, but hereafter consequent upon the passing of the Court Fees Act, it is sure to go up to 130 and then there will be an increment of about 40 per cent. Now, in that state of things, is it reasonable to ask for the reduction of the number of courts ignoring the simple fact that consequent upon the passing of the Court Fees Act there will be a tendency for litigation to go up with respect to certain classes of suits and these suits instead of being instituted in the munsifs' courts will have to go up to the subordinate courts with the inevitable result that a congestion will be produced in the subordinate courts to the extent of 40 per cent? In that view of the matter, I venture to think that there is strong necessity for the retention, continuation and even, if necessary, for the permanency of these temporary sub-courts."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"The hon. the Law

12-15 p.m.

Member has entered a vigorous plea for the continuance of all the temporary sub-courts. I fully appreciate all the arguments raised by him in favour of that suggestion; but I still recognise that there is still necessity for re-examining the whole question and considering whether it is necessary to maintain all the temporary sub-courts in the Presidency. The history of this question would show that within the last few years there has been a steady increase in the number of additional courts; but we are not yet satisfied that there has been a proportionate decrease in the pendency of suits. He has drawn our attention to figures tending to show the long duration of suits and he has pointed out the monstrous injustice of perpetuating that system. We do accept that position. We do recognize that it is unfair to mete out tardy injustice without an adequate conception of the necessities of each case. But I would like to know if information is available as to the exact state of litigation in each of these places before these temporary sub-courts were constituted, what the pendency of the suits is in each of these places, and whether in consequence of the introduction of these sub-courts there has been a proportionate and reasonable decrease in the pendency of suits. Such information, if compiled and made available, would help us in coming to a proper conclusion regarding this question. There is not much use in abstract reasons advanced on the footing that because there is increase in the number of courts, there will be a decrease in the pendency of suits. There will be decrease to some extent. But all that I am concerned with is whether there is a reasonable reduction in the pendency of suits as the result of the introduction of these courts. This is one aspect of the question which I request the House to



[Mr. A. S. Krishna Rao Pantulu]

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consider. Secondly, Sir, I am afraid that the establishment of courts would have led to an increase of litigation in various places. I would deprecate the increase of litigation to an unreasonable extent. A careful analysis should be made of the conditions prevailing in these places, though it requires some time, and we should ascertain whether it has not unnecessarily led to an increase of litigation, as the opinion of this House will depend upon a consideration of those factors. The question is whether the establishment of these courts in places where there was not clear necessity when they were started, has not led to the increase of litigation. I will give this House one or two facts which probably might serve as an illustration of the manner in which these courts were increased in some cases. I confine myself to the district from which I come. Four or five years ago when a temporary sub-court was established the then presiding judge (I am not going to mention names) who was very active and energetic, was deliberately of opinion that it was not necessary to continue the sub-court in Nellore. He stated that within a short time he hoped to clear out the arrears and pointed out the feasibility of disbanding the temporary sub-court. Time passed on. He was succeeded by another officer who thought that it was necessary to have the temporary sub-court. He consulted the Bar Association, of which I am a member, which, however, passed a resolution stating that it was not necessary to have a temporary sub-court in Nellore. The decision arrived at by the Bar Association was against the wishes of the presiding judge. I am quite alive to the fact that there is now work for a temporary sub-court. I am only mentioning it for the consideration of the hon. the Law Member so that he might examine all things carefully and come to a conclusion before saying that there is necessity to have all these sub-courts. Though it was possible for one judge to say that it was not necessary to have a subordinate court, and though the Bar Association had deliberately stated that it was not necessary, the succeeding officer was satisfied about the necessity for a sub-court. This might have been avoided, if sufficient care was taken. After the court was established, we find that the pendency has been increasing. The sessions cases take much time. The district judge is not able to do civil work. If this aspect of the question had been borne in mind in examining the necessity for these temporary courts, there would not have been such increase in the number of courts. Before I close may I refer to a discussion (which took place in this Council) on a previous occasion regarding the constitution of the High Court? In the year 1914-15, when the question of reducing the number of Judges of the High Court was specifically raised, it was specifically pointed out that the figures were all illusory, that the figures relating to pendency of suits would be varying from time to time, and that there was room for reduction."

Mr. K. P. GOPALA MENON:—"The House is aware that during the general discussion on the budget I was one of those who bitterly complained about the provision of temporary sub-courts being located in places where there was no necessity for the same. If I now support the motion of my hon. Friend it is not because of the question of communal representation or anything of that description. My own view of the matter is that in effecting a retrenchment of this kind communal representation has absolutely no place. We are now mainly concerned with the question whether or not some retrenchment can be made, and whether or not it is necessary, as Mr. Krishna Rao stated, that we should request the hon. the Law Member to make a

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[Mr. K. P. Gopala Menon]

thorough investigation before recommendations for the location of temporary sub-courts are sanctioned. Speaking from my own personal experience, a few years ago before the bifurcation of the Madura district into Madura and Ramnad, we had only two sub-courts—Madura west and Madura east. Now, after the bifurcation of the district, we have got in Madura the Madura sub-court, the first additional sub-court, the second additional sub-court, and the Dindigul sub-court. Coming to Ramnad, we have got the Ramnad sub-court, the first additional temporary sub-court, the temporary sub-court, and the Sivaganga sub-court. I certainly think that this is much more than there is any need for. Whenever a district judge makes a reference to the High Court, adducing facts and figures and says 'I want one additional sub-court,' his request is granted. In the next year he may ask for another additional sub-judge and that is granted. The real point is, whether or not, before such things are granted, a careful investigation is made. In the case of my own district—I won't mention names—the tendency of the judges to hear civil appeals is absolutely dying down. They find themselves very busy with sessions work. They take up one witness and take one and a half day for his examination so much so that civil appeals are shoved upon the sub-judges, the first additional, the second additional sub-judge, and so on. I am sure if a thorough investigation is made by the hon. the Law Member he will be saving a lot of money. He should take the trouble to go to some of these districts and pay surprise visits besides examining the statistics, and see if as a matter of fact there is a necessity for another sub-judge. On the receipt of a request from a district judge a sub-judge is granted. As a matter of fact these arrears accumulate because certain district judges are doing the precious little work of 3 to 3½ hours a day. Even if another district judge succeeds and he attends court at 10 o'clock he finds that he is unable to cope with the arrears, and so he has to apply for an additional sub-judge. Therefore it is highly necessary that a thorough investigation should be made as to the necessity of having three or four additional sub-courts. To make such an investigation compulsory, it is essential that we should reduce the grant. It is only with that view that I urge the acceptance by the House of this motion."

Rao Bahadur P. C. ETIRAJULU NAYUDU :—"After what has been stated by other hon. Members it is hardly necessary for me to reiterate the facts again. By reducing this allotment no unusual misfortune will happen. All that I ask for is to reduce a certain number of officers. As I have already stated in moving the motion if the officers do their work properly there will be hardly any accumulation of arrears. I can give you one instance. While there were arrears of four or five years in Guntur, when Mr. Coleridge was put in charge he cleared the whole arrears in six or seven months. It is all in the persons whom you appoint. Government in selecting sub-judges should select really capable men who will clear the arrears soon. I therefore request the Government to accept my motion."

The hon. Mr. K. SRINIVASA AYYANGAR :—"Mr. President; I really wish to point out that this certainly is not the moment to reduce the number of sub-judges. It is not correct to say that when a district judge or somebody else asks for a court and shows some figures the High Court grants it as a matter of course. Much less is it correct to say that the Government granted it. Whenever any court is asked for the figures are very carefully investigated—



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that is the only thing by which we can go by—and when we find that the figures even by a very small extent do not justify the institution of a court we stop it.

12-30 p.m. “The real trouble about the accumulation of arrears is this: if there have been courts created for the purpose of coping with arrears as they arose, there would not have been this accumulation, for, as soon as a judge feels that the file in his court is such that he cannot with reasonable endeavour, cope with it, he must do one or other of two things: either he must try to dispose of them as quickly as possible even at the risk of doing injustice, or in helplessness he must leave the heavier cases to accumulate; and accumulated arrears pending in courts consists of suits of difficulty and these must be cleared as soon as possible.

“Portions of the administration report for the last year were read by one of the hon. Members. In it was stated that there was a diminution of some cases beyond those of the previous year. They include small cause suits and suits in village courts. It is true that there has been a reduction in the suits filed in the district munsifs' courts in the last year. The result of such reduction in the file last year was from 66,000 and odd cases in arrears pending in 1919 the number has been reduced to 62,000 and odd. We must remember that the judges have to cope with the new work that is coming in in addition to disposing of the arrears. It may be true again that in some places you do not want a court which now exists. I am carefully considering this question and if I find that in any particular place a court is not necessary, it will be shifted to some other place where there is necessity for it. It does not mean that twenty temporary courts will be sitting in the places in which they are now sitting. As soon as it is found that their presence in a particular place is not necessary, they will be shifted to places where there is accumulation of work. So far as I am able to see, I do not find any falling in the quantity of work done by the judges. As regards the quality, it is not possible for anybody here to judge. Anyhow this is not the time to make any reduction in the number of courts. For I find there has been a growing increase in the number of suits filed in the higher courts. The average, Sir, for about ten years prior to 1918 was 2,212 original suits and a number of small cause suits. In 1919 it was 2,764 original suits; in 1920, 2,940; and in 1921, 3,506. The arrears have been increasing. In 1919 there were 3,269; in 1920, 3,872; in 1921, 4,415 original suits. After all, when clients pay, we have got to provide them with courts for the trial of their cases. In these circumstances, so far as sub-courts are concerned, I do not think it will be possible to reduce their number. They are now engaged in clearing off the existing arrears. When the existing arrears are cleared, then it may be time to see whether their number may be reduced or not.”

Mr. A. RANGANATHA MUDALIYAR:—“I see from the statement made by the hon. the Law Member that there is to some extent congestion of work. But to my mind, it does not appear that the additional sub-courts are going to relieve this congestion. I think more supervision is necessary. My experience has been, Sir, in the mufassal at least, that so far as criminal and civil courts are concerned, there is more of supervision in criminal courts than there is in civil courts. Returns may be sent on the civil side also; but I doubt very much whether those returns are scrutinized with the care with which similar returns are done on the criminal side. Then, it is said that there are a number of courts in one and the same place. The

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establishment of more than one sub-court in one and the same place, so far as I can see from my experience, is never conducive to quick disposal of work. The reason is obvious. The whole of the civil work is concentrated in the hands of a few people and these gentlemen are unwilling to let go any work that comes to them, with the result that they go about from court to court asking the munsif or the judge as the case may be to oblige them by short adjournment. They may say that they have work elsewhere, or something else conveniently happens, with the result that these suits are adjourned from time to time. That is the reason why, I think, the pendency is increasing. This is not going to be avoided at all by keeping a number of courts in one and the same place. The remedy seems to be, so far as I can see, that there should be more of efficient supervision and there must be greater co-operation on the part of lawyers. Otherwise there is no hope. So the case for reduction stands good."

Mr. T. C. TANGAVELU PILLAI:—"From the statistics read out by the hon. the Law Member, we see that there is rise in litigation. Who is responsible for this? Is it the tax-payer, the litigant, or both the bench and the bar? The bench and the bar are responsible for the increase. Such being the case, why should the tax-payer be asked to pay more on account of the additional courts?"

The hon. Mr. K. SRINIVASA AYYANGAR:—"The tax-payer does not pay a single pie for this. It is the litigant that pays."

Mr. T. C. TANGAVELU PILLAI:—"If every department depends on its own income, why should there be any deficit in the budget? In supporting this motion, it is not our intention that we want to criticize upon the kind of work that is going on but to bring to the notice of the Government the irregularities and the way in which litigation is being managed. A number of adjournments are given on absolutely baseless grounds. One vakil says that he has to attend his mother's ceremony and so he wants adjournment; another says that he has to go to his father's anniversary and so he wants an adjournment. In this way litigation is postponed to suit the convenience of vakils. I and my friend Mr. Gopala Menon here bear out that we have got judges who take 5 minutes to record one sentence. In such a case how can the work be disposed of quickly? I think recently the pay of these judges has been increased from Rs. 800 to Rs. 1,200."

Mr. S. T. SHANMUKHAM PILLAI:—"I quite agree with my friend Mr. Gopala Menon that in the south there is a general complaint that there are more additional temporary sub-courts than are really necessary. Many of them are superfluous and if a thorough investigation is made, we could reduce the number. Though some courts may be found to be necessary to relieve the congestion of the district judges, the rest might be abolished. I think some of the courts are concentrated in one place for the purpose of securing convenience to the bar and the district judges than for relieving congestion and tension. I therefore support the motion by way of bringing pressure upon the Government to make a thorough investigation that is quite necessary."

Khan Bahadur MUHAMMAD USMAN SAHIB Bahadur:—"Sir, I also support the motion. There is a general impression in the country that there is not enough work for so many courts. The Finance Member told us yesterday that his officers in the Secretariat have been recently working



[Mr. Muhammad Usman Sahib]

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till 2 or 3 o'clock in the night and that he himself till 11. I do not see any reason why these sub-judges should not work till 7 or 8 in the evening and dispose of their cases."

The motion was then put and a poll was taken with the following result:—

*Ayes.*

- |   |  |
|---|--|
| 1. Mr. K. Adinarayana Reddi.              | 26. Mr. A. Tangavelu Nayakar.                  |
| 2. Mr. S. R. Y. Ankinedu Prasad.          | 27. Mr. I. C. Tangavelu Pillai.                |
| 3. Dr. M. Appalanarasayya Nayudu.         | 28. Mr. V. C. Vellingiri Goundar.              |
| 4. Mr. R. Appaswami Nayudu.               | 29. Mr. C. Venkata Ranga Reddi.                |
| 5. Rao Bahadur V. Appaswami Vandayar.     | 30. Mr. P. Venkatasubba Rao.                   |
| 6. " P. C. Etirajulu Nayudu.              | 31. Diwan Bahadur R. Venkataratnam Nayudu.     |
| 7. " K. Gopalakrishnaaya.                 |  |
| 8. Mr. S. T. Shanmukham Pillai.           | 32. Diwan Bahadur M. Krishnan Nayar.           |
| 9. Rao Bahadur T. Balaji Rao Nayudu.      | 33. Mr. C. V. Venkataramana Ayyangar.          |
| 10. Mr. C. Ramalinga Reddi.               | 34. Sriman Biswanath Das Mahasayo.             |
| 11. Mr. O. Tanikachala Chettiyar.         | 35. Rao Sahib U. Rama Rao.                     |
| 12. Mr. W. Vijayaraghava Mudaliyar.       | 36. Mr. A. Ranganatha Madaliyar.               |
| 13. Mr. K. P. Gopala Menon.               | 37. Sriman Sasi Bhushana Rath Mahasayo.        |
| 14. Mr. K. Kandaswami Kandar.             | 38. Mr. M. R. Seturatnam Ayyar.                |
| 15. Mr. B. Muniswami Nayudu.              | 39. Mr. T. Sivasanakaram Pillai.               |
| 16. Mr. A. T. Muttukumaraswami Chettiyar. | 40. Mr. S. Arpudawami Udaiyar.                 |
| 17. Mr. M. Narayanaswami Reddi.           | 41. Rai Sahib E. C. M. Mascarenhas.            |
| 18. Mr. C. Natesa Mudaliyar.              | 42. Mr. A. T. Palmer.                          |
| 19. Mr. V. P. Pakkiriswami Pillai.        | 43. Mr. K. Prabhakaran Tampan.                 |
| 20. Mr. P. T. Rajan.                      | 44. Mr. A. D. M. Bavotti Sahib.                |
| 21. Mr. K. Sarabha Reddi.                 | 45. Mr. Ahmad Miran Sahib.                     |
| 22. Mr. W. P. A. Saundara Pandia Nadar.   | 46. Saiyid Diwan Abdul-Razzaq Sahib Bahadur.   |
| 23. Mr. K. Sitarama Reddi.                | 47. Khan Bahadur Muhammad Usman Sahib Bahadur. |
| 24. Mr. T. Somasundara Mudaliyar.         | 48. Mr. G. Vandanam.                           |
| 25. Mr. A. Subbarayudu.                   | 49. Rao Sahib P. Venkatarangayya.              |

*Noes.*

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| 1. The hon. Sir Lionel Davidson.                       | 12. Mr. E. Periyanaayagam.                 |
| 2. " Sir Charles Iodhunter.                            | 13. Mr. R. K. Shanmukham Chettiyar.        |
| 3. " Khan Bahadur Muhammad Habib-ul-lah Sahib Bahadur. | 14. Mr. A. Ramaswami Mudaliyar.            |
| 4. " Mr. K. Srinivasa Ayyangar.                        | 15. Rao Bahadur T. A. Ramalinga Chettiyar. |
| 5. " Mr. P. Ramarayaningar.                            | 16. Mr. S. Muttumanioka Achari.            |
| 6. " Rai Bahadur K. Venkata Reddi Nayudu.              | 17. Rai Bahadur T. M. Narasimhacharlu.     |
| 7. " Rao Bahadur A. P. Patro.                          | 18. Mr. R. Srinivasa Ayyangar.             |
| 8. Mr. T. E. Moir.                                     | 19. Mr. M. Suryanarayana Pantulu.          |
| 9. Mr. F. J. Richards.                                 | 20. Sir J. F. Simpson.                     |
| 10. Mr. C. W. E. Cotton.                               | 21. Rao Bahadur T. Namberumal Chettiyar.   |
| 11. Mr. R. Littlehales.                                | 22. Mr. T. Richmond.                       |

The motion was declared carried, 49 having voted for and 22 against.

*Motions 419 to 424.*

The following motions being identical with motion 418 fell through:—

Mr. B. MUNISWAMI NAYUDU :—

419. *To reduce the allotment of Rs. 1,56,000 for temporary sub-judges by Rs. 40,000.*

Mr. C. NATESA MUDALIYAR :—

420. *To reduce the allotment of Rs. 1,56,000 for temporary sub-judges by Rs. 35,000.*

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Mr. C. RAMALINGA REDDI :—

421. *To reduce the allotment of Rs. 1,56,000 for temporary sub-judges by Rs. 35,000.*

Dr. P. SUBBARAYAN :—

422. *To reduce the allotment of Rs. 1,56,000 for temporary sub-judges by Rs. 35,000.*

Mr. O. TANIKACHALA CHETTIYAR :—

423. *To reduce the allotment of Rs. 1,56,000 for temporary sub-judges by Rs. 35,000.*

Mr. W. VIJAYARAGHAVA MUDALIYAR :—

424. *To reduce the allotment of Rs. 1,56,000 for temporary sub-judges by Rs. 35,000.*

*Motion 425.*

12-45 p.m.

Rao Bahadur K. GOPALAKRISHNAYYA :—“ Sir, I beg to make the following motion :—

425. *To reduce the allotment of Rs. 86,400 for temporary district munsifs by Rs. 25,000.*

“ The allotment for temporary district munsifs will be found in page 92 and the details for which will be found in page 93 of the budget. It may be seen, Sir, that the arguments advanced with reference to the previous motion hold good in this motion also. There are also some additional reasons in favour of this motion. We see there is provision made for 24 temporary district munsifs. There are already 144 munsifs permanent and to that number it is proposed to add these 24 temporary district munsifs. It may be seen from the statement of figures read out by my hon. Friend Mr. Arpudawami Udaiyar that there has been more or less an appreciable decrease of institution of suits, though the clearance of these suits may not be so appreciable. But still so far as we take into consideration the institution of suits there is no reason why they should not be cleared as promptly as they were used to be done some years ago. Probably it may be contended for the Government that the nature of suits may be quite different from the nature of suits which used to be filed before. No doubt the point has been raised by the hon. the Law Member with regard to the quality of the business that is now turned out by the various munsifs. I think supervision may be taken to be one of the foremost causes that will accelerate business in these courts. Moreover, Sir, it will be seen that there is a tendency in the villages to put into operation the provisions of the Village Panchayat Act. If that is done several of the suits which are now filed in the munsifs' courts will go before the village panchayat courts and I think it is the ardent wish of every one of the hon. Members of this House that the village panchayat courts should become very effective and successful, and as such some of the suits will naturally be transferred from the munsifs' courts to the panchayat courts. That is one of the foremost reasons that would go in favour of the reduction of this amount.

“ Then with regard to the nature of the work turned out by the munsifs' courts, I think it will have to be borne in mind that the various provisions of the Civil Procedure Code with regard to the proof of facts or documents are



[Mr. K. Gopalakrishnayya]

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not strictly adhered to. For instance, when the genuineness of a document is to be proved, that document is not ordinarily put to the opposite side for proof by way of admission under the chapter in the Civil Procedure Code which is not generally made use of. The party who wants to prove the document is put to proof and he has to call all his witnesses. Much time may be saved if the other party is confronted with the document and if he is asked to admit or deny the same. By such procedure, I think a lot of time would be saved.

“Again, Sir, because we have passed the Court Fees Act, there may be a tendency to make all these courts permanent. If we pass this grant without any reduction there may be the tendency for the Government that because the Court Fees Bill has been passed, they will get greater revenue, and so all the temporary courts may be made permanent, or at least there will be no inclination to abolish any of the temporary courts immediately. I think, Sir, that the litigious nature in man may be compared more or less with drunkenness. The greater the number of courts, the greater the tendency for litigants to rush to them. No doubt some arguments have been advanced on the basis that there are arrears of work in the various courts and that there should be increase of hands to clear them out. But I may bring to the notice of the hon. the Law Member that after a few months the tendency for some of these temporary munsifs will be to keep their work in arrears so that they may be made permanent or prolong their tenure of office. That is one of the reasons why these arrears are not properly cleared out. In order to see that these arrears are cleared out there must be a certainty that these munsifs would be made permanent, or that they would not be made permanent at all.

“Without meaning any offence to any one I mean to say that it is human tendency to keep a certain work in arrears so that a chance may be created for being made permanent. If the temporary munsifs are told that they would not be made permanent and that they should clear out arrears before such and such a time, then there will be no difficulty.

“It will also be seen that with regard to criminal courts in the district, there have been circulars from district magistrates with regard to proof of certain documents or facts, with regard to the disposal of cases, with regard to adjournments and such other things. I think that has been a more effective method in the despatch of criminal work provided that the magistrates act without detriment to their discretionary powers. Unless some such circulars or orders are issued by the High Court or by the District Judges by way of supervision with regard to proof of documents or facts, with regard to adjournment of cases, there will be a tendency for accumulation of arrears, and I believe there will be no end for the accumulation of arrears. From my personal knowledge I can say there are some courts in my district that have no work whatsoever. I may probably quote an instance—the District Munsif's Court of Nandigama which is maintained with a large establishment at a long distance from the headquarters. Neither the clients, nor the munsif, nor the vakils desire that that court should be located there. They all say that the Nandigama Munsif's Court should be abolished, and its jurisdiction given over to one of the munsifs' courts that are working at Bezwada. I presume the same thing prevails in several other courts in other districts.

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“Again, Sir, it will be seen that we are not furnished with any information as to when these temporary courts were established for the first time, at the time of their establishment what was the state of arrears and what quantity of work has been disposed of after the establishment of those courts. I am sure that if all these things are taken into consideration, there will be absolutely no proof of any appreciable amount of duty having been discharged by these temporary munsifs. For these reasons, Sir, I move that the allotment be reduced by Rs. 25,000.”

The hon. Mr. K. SRINIVASA AYYANGAR :—“Sir, it is true there has been some reduction in the ordinary file of the munsifs’ courts. In order to enable the existing temporary courts and the permanent courts to try and dispose of the existing arrears it will take 20 years, provided there is no more than the normal file during that period in all the courts. Whether it is just to reduce the courts now because you imagine there is no supervision or because you imagine that these munsifs are keeping up arrears with a view to their being made permanent, these are questions for the House to decide.

“Regarding the arrears, Sir, I may state, the arrears in 1919 were 62,301; in 1920 the arrears were 64,061; in 1921, the arrears were 60,077. Unless, therefore, there is a very large reduction in the number of suits that are filed in the munsifs’ courts, there is no chance of clearing the arrears within any reasonable time, even with the existing courts.

“Something was stated about these suits being taken to the village courts. I will just read to you one sentence from the Administration Report of the High Court: ‘The total number of suits instituted in the village courts was 95,214 in 1920 as against 96,114 in 1919 and 107,444 in 1918. There has thus been a less resort to the village courts, and the figure is 31,745 less than the average for the past five years ending with 1918.’ This is in spite of the fact that you have got to pay court fees if suits are filed in the district munsifs’ courts while you have got to pay no court fees in the village courts. Until more confidence is placed in these courts by the litigants, there is no reasonable chance of there being any diminution in the file in the superior courts.

“Now, Sir, something was said about want of supervision. I think all hon. Members are aware that supervision is exercised both by the district judges and by the High Court with regard to inferior courts, such as the subordinate judges’ courts and the district munsifs’ courts. My hon. Friend has also stated that they do not pass any rule regarding adjournment of cases and admission of documents or facts. I may say, Sir, that as regards admission of documents or facts, it is not the High Court that has got the power but it is the pleaders that have got that power and if the pleaders are doing their duty properly, there should have been no delay in trials, and members of my tribe will, I am sure, not admit that they are not doing their duty properly. With regard to adjournment of cases, and other matters referred to I may inform my hon. Friend that almost every six months, the High Court is issuing circulars to the subordinate courts that they should not adjourn cases because vakils want them or because somebody says that he wants some witnesses to come and so on. Except where it is absolutely necessary in the interests of justice no adjournment should be granted; that I believe is the rule, and so far as the High Court is concerned, they have done and are doing everything they can possibly do and they are also seeing that their rules are enforced.



[Mr. K. Srinivasa Ayyangar] [21st March 1922]

"Again, it was stated that these temporary munsifs accumulate arrears because they want to be made permanent. I submit, Sir, that that is a suggestion which is without any basis whatsoever. In justice to these hard-worked gentlemen, I must say there has been no diminution in their standard of work which I believe was fixed so early as 1904. Between that year and this, the bar has very considerably improved and with the improvement of the bar, there is more strenuous advocacy and trials are lengthened. Therefore there is no basis for the suggestion that due quantity of work is not being turned out by these munsifs. Even if we keep them at this rate, as I already said, it will take nearly 15 years to reduce the present state of arrears provided there is no increase in the normal file of suits.

"In these circumstances I see no justification whatever for the reduction. We have recently raised the court fees. The only justification for the increase in court fees is that the litigants should pay for the establishment. There was a vigorous protest both from the professional bodies and the High Court that the increase in court-fees should not be made unless it is required for the purpose of covering the deficit in judicial establishments. I said at the time of the introduction of the Bill to amend the Court Fees Act, and I repeat it now, that there is no justification for levying more court fees unless you are going to pay more for the judicial establishment. The money got from court fees should not be taken to add to the general revenues of the province. As I said before, it will be almost impossible for the Government to resist the pressure, if pressure is brought to bear on the Government to reduce the fees. The litigant public has a right to ask for a reduction in court fees if the proceeds of the fees is not fully utilized for judicial establishments."

1 p.m.

Diwan Bahadur M. KRISHNAN NAYAR :—"The hon. Member who made this motion, Mr. K. Gopalakrishnayya, said in the course of his speech that many of the arguments that had been advanced with reference to the previous resolution relating to the temporary sub-judges were applicable to the temporary munsifs also. I beg to differ from him. In the case of the temporary sub-judges it was, I think, Mr. Gopala Menon that said--and others also agreed with him--that there was a tendency in some district judges not to take up civil appeals and civil original suits for disposal. The tendency in them is to transfer such cases to the courts of sub-judges. That, I believe, was an important consideration which induced this House to vote for that reduction. That argument cannot apply to the case of the temporary munsifs at all. In their case, there is no question of the transfer of civil suits from the file of the district judges to the file of these munsifs. Personally I know from my experience that the munsifs are as a class a hard-worked and hard-working lot. It has been said that in the case of temporary munsifs there is a tendency to dispose of as few cases as possible, so that these temporary courts may be kept on. In saying this, my friend Mr. K. Gopalakrishnayya unconsciously did an injustice to this class of temporary munsifs. On the contrary, it is just the other way. These temporary munsifs know very well that their confirmation depends upon their turning out adequate work which their superior authorities periodically examine. So, the tendency on the part of the temporary munsifs is, instead of being lazy, to over-work so that they may get themselves confirmed before long. So that the argument does not hold good in the case of the temporary munsifs.

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[Mr. M. Krishnan Nayar]

“Then what is the effect of the reduction you propose. My hon. Friend wants to reduce Rs. 25,000 out of an allotment of Rs. 86,000—I am speaking in round numbers. That will mean roughly the reduction of one-third in the number of courts. The number of temporary munsifs is 24, so that, if this reduction is carried out, the result will be that about seven temporary munsifs out of 24 will disappear. This will be a very great hardship, I submit not on the temporary munsifs themselves, but upon the litigant public. My friend, the hon. the Law Member, has very aptly referred to the recent increase in the court-fees. After having increased the court-fees and after taking a larger amount of taxes by way of court-fees, if you reduce the number of temporary munsifs you will be doing scant justice to them, as reduction in the number will mean reducing the opportunity for the quick disposal of cases. Therefore, I oppose the motion for reduction.”

MR. C. V. VENKATARAMANA AYYANGAR :—“I support the motion before the House. I want to say a word with reference to the remarks of the hon. the Law Member and Mr. Krishnan Nayar, that it is an undeserved slur cast upon the temporary munsifs when an observation was made that they are likely to do less work. I am sorry that all of them have assumed that only temporary munsifs are posted to temporary courts and the permanent munsifs to the permanent courts. But the fact is that very often temporary munsifs are posted to permanent courts and permanent munsifs to temporary courts. I do not at all say that all these district munsifs are doing less work than they ought to do. But there are several ways by which the work of the munsifs can be easily reduced. With due respect to the hon. the Finance Member, figures are not always correct and they are also sometimes misleading. The hon. the Law Member cannot justify his position by giving the total number of suits. *Ex parte* suits take very little time. The increase in the number of cases disposed of will be no indication for the work turned out by a munsif for a large percentage might have been *ex parte* cases. Some of the munsifs include the *ex parte* suits also in showing the amount of work done. In some cases they spend more time in deciding *ex parte* suits. I can understand much time being taken in the case of land suits, but in the case of bond suits, where owing to exceptional difficulties a debtor is unable to pay his debt, there is no reason why the munsif should devote much time on hearing such suits.”

THE HON. MR. K. SRINIVASA AYYANGAR :—“The question having been raised, I should like to say that the number of contested suits disposed of has risen from 59,471 in 1919 to 62,756 in 1920. The average duration of contested ordinary suits was 328 days as against 315 days in 1919.”

MR. C. V. VENKATARAMANA AYYANGAR :—“I am thankful for the information, Sir. The term ‘contested suit’ is often applied to a suit if the defendant says that he has to pay a rupee less than what the plaintiff claims, or asks for a month’s time to pay up the amount.

“A lot of time is unnecessarily wasted for uncontested suits. I request the hon. the Law Member to issue a circular not to do that but to accept affidavits to serve the purpose of evidence in *ex parte* suits.”

THE HON. MR. K. SRINIVASA AYYANGAR :—“The Law Member has no such powers, Sir.”



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Mr. C. V. VENKATARAMANA AYYANGAR :—" He can ask the High Court to do that. I am perfectly right in asking the hon. the Law Member to issue a circular, because he represents the judicial administration in this Council.

"The unpopularity of the village panchayat courts also was referred to in the course of the discussion. It is very unfortunate that neither a vakil nor an agent can represent the party in the panchayat court, but he can be represented only by a relation or friend. So the unfortunate litigants who do not know to conduct cases cannot go to the panchayat courts. If any vakil or an agent cannot represent the party in such a court the number of cases in panchayat courts cannot increase. So, if a change is made, as I have suggested, there will be more suits in panchayat courts and less in the courts of district munsifs.

"Then again there is a third point. The hon. the Law Member gave a hint the other day that he would bring in a Bill very soon by which court-fees upon suits compromised before the first hearing would be reduced. I think that such a legislation will induce many people to settle cases before the first hearing. If some such thing is done there will be a great reduction of suits.

"Lastly, it was contended that because you have increased the court-fees you must also increase the number of courts. At the time of the introduction of the Bill it was said that because you have more courts costing more money you must have a higher court-fee. Now it is contended that because you have a higher court-fee you must have more courts. Such a thing can go on *ad infinitum*. Probably next year the hon. the Law Member may bring in a Bill to have a higher court-fee next year if the number of courts is now increased.

"For these reasons, Sir, I support the motion for reduction."

Mr. S. ARPUDASWAMI UDAIYAR :—"I had occasion to remark in connexion with some other resolution that there has been a decrease in the number of suits instituted before civil courts and the number of appeals preferred. And then my hon. Friend Mr. T. A. Ramalinga Chettiyar would not permit me to quote that portion which related to the district munsifs. On page 4 of the statistics of civil courts I find the following statement :—

'In the District Munsifs' courts other than those for the Agency Tracts, 119, 550 ordinary suits were instituted, or 3,614 less than in the previous year; there was a decrease of 18,718 in the number of small cause suits instituted the figure being 195,415 against 214,133 in 1919. There was thus a decrease of 22,332 in the total of both classes of suits.'

"Again, Sir, I referred to the fact that in these statistics Anantapur is referred to as being the least litigious, because it contributed the smallest number of suits (4,340) not more than one suit being filed for every 222 persons. Nevertheless we find a temporary munsif's court has been established. It was established in February 1920. This does not look like economy. I am a layman, Sir, and I cannot pretend to any special knowledge of these matters. I have not much knowledge of law nor am I fond of going even very near a law court. (Laughter.) If the hon. the Law Member said that we must not take into consideration this slight decrease, that in spite of this slight decrease the normal work of these courts should go on, well, I do not seriously quarrel with him. I have only to tell him that these figures show that the time has come to see whether the pruning knife cannot be pushed

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[Mr. S. Arpudaswami Udaiyar]

a little farther. Hon. Members will remember that we are living and working in abnormal times and under abnormal conditions. Therefore, the very fact that we are carrying on our work under abnormal conditions, I think, justifies a more careful and closer investigation into this matter. I do not wish to cast any slur upon the work done by that honourable body of district munsifs among whom I count scores of my old pupils; they are all fine fellows and I can testify to the good work done by them. What I contend is that there is room perhaps for some temporary district munsif's courts being shifted from some districts and some few permanently closed. There are 12 districts which show a decrease. Perhaps the sum proposed by Mr. K. Gopalakrishnayya is too much, and will work hardship. But whatever it be I think by passing a motion like this this House will expedite this inquiry or investigation which is absolutely necessary. At the same time I must say I am a believer in Milton's creed of strenuous labour. When I make that statement I do not mean to say that the district munsifs or their establishments are not applying themselves strenuously and earnestly to the disposal of cases. Nevertheless by utilizing to the full the office hours allotted for the disposal of cases and by remaining for an hour or two more on extra occasions, by bringing to bear on the task greater earnestness in view of the special nature of the times and the abnormal conditions under which everybody has to carry on his work, I think it should be possible for us to secure greater economy. Therefore, in this spirit and in none other, I support this motion."

Mr. T. SIVASANKARAM PILLAI:—"Reference having been made to the civil courts in the Anantapur district more than once, I feel

1-15 p.m.

called upon to make certain observations with regard to the state of things that exists there. Three or four years ago, we had two civil courts for ten taluks. Anantapur consists of nine taluks. The Gooty court comprised the two taluks of Gooty and Tadpatri as also Adoni of the Bellary district. All the rest of seven taluks had one court at Penukonda. Now, Adoni taluk has been taken away from the jurisdiction of Gooty court, so much so, we have now three courts between nine taluks. That is rather one too many I fear.

"Now looking at facts in their true perspective, there are more than one consideration which have to be taken into account. The co-operative movement is making rapid progress in my district, and the number of dealings that take place between the borrowers and these societies are on the increase, so much so the village money lender is resorted to less and less. Most of the litigation that arises between these societies and the borrowers are disposed of by the assistant registrars and registrars of co-operative societies, where they need not pay any court-fee and the dues are recovered under the Revenue Recovery Act. Secondly, we have lately enhanced the court-fees due on land suits. This will again lead to an appreciable reduction in the number of land suits; in consequence of all these the suits relating to lands paying more than Rs. 300 as assessment may have to go before the district court.

"Then there is also another chance of our civil work in the munsif's court being reduced. Considering the progress of the co-operative movement in Anantapur district there is every prospect of the village panchayat courts also increasing in popularity, and in a few years, with the advent of these institutions it is likely that much of rural litigation will be attended



[Mr. T. Sivasankaram Pillai]

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to by these village courts. These three considerations being taken into account, there is every prospect of litigation diminishing in munsif's court, and in this view, applying the facts particularly to the Anantapur district, I think one court is too many there. In this view, I think the temporary courts may be reduced."

Rao Bahadur T. BALAJI RAO NAYUDU :—" I move that the question be now put."

The hon. the PRESIDENT :—" I have to mention to the House that at 2 p.m. this debate must cease and there will be no further discussion, and the demand, whatever it be, must be put then. The motion now before the House is that the question be put."

The motion for the closure was carried unanimously.

The main motion was then put to the House and declared carried.

The hon. Sir Lionel Davidson demanded a poll which was taken with the following result :—

#### Ayes.

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| 1. Mr. K. Adinarayana Reddi.                    | 25. Mr. A. Tangavelu Nayagar.                  |
| 2. Mr. S. R. Y. Ankinedu Prasad.                | 26. Mr. V. C. Vellingiri Goundar.              |
| 3. Dr. M. Appalarasayya Nayudu.                 | 27. Mr. C. Venkata Ranga Reddi.                |
| 4. Mr. R. Appaswami Nayudu.                     | 28. Mr. P. Venkatasubba Rao Pantulu            |
| 5. Rao Bahadur V. Appaswami Vandayar.           | 29. Diwan Bahadur K. Venkataratnam             |
| 6. Rao Bahadur P. C. Etirajulu Nayudu.          | Nayudu.  |
| 7. Rao Bahadur K. Gopalakrishnayya.             | 30. Rao Bahadur A. S. Krishna Rao Pantulu.     |
| 8. Mr. S. T. Shanmukham Pillai.                 | 31. Mr. C. V. Venkataramana Ayyangar.          |
| 9. Rao Bahadur T. Balaji Rao Nayudu.            | 32. Sriman Biswanath Das Mahasayo.             |
| 10. Mr. C. Ramalinga Reddi.                     | 33. Rao Bahadur C. V. S. Narasimha Raju.       |
| 11. Mr. O. Tanikachala Chettiyar.               | 34. Rao Sahib U. Rama Rao.                     |
| 12. Mr. W. Vijayaraghava Mudaliyar.             | 35. Mr. A. Ranganatha Mudaliyar.               |
| 13. Mr. K. P. Gopala Menon.                     | 36. Sriman Sasi Bhushana Rath Mahasayo.        |
| 14. Mr. B. Muniswami Nayudu.                    | 37. Mr. M. R. Seturatham Ayyar.                |
| 15. Mr. A. T. Muttukumaraswami Chettiyar.       | 38. Mr. T. Sivasankaram Pillai.                |
| 16. Mr. M. Narayanaswami Reddi.                 | 39. Mr. S. Arpudadaswami Udayar.               |
| 17. Mr. C. Natesa Mudaliyar.                    | 40. Mr. A. T. Palmer                           |
| 18. Mr. V. Pakkiriswami Pillai.                 | 41. Mr. M. K. Prabbakaran Tampan.              |
| 19. Mr. P. T. Rajan.                            | 42. Abbas Ali Khan Bahadur.                    |
| 20. Mr. K. Sarabha Reddi.                       | 43. A. D. M. Bavotti Sahib Bahadur.            |
| 21. Mr. W. P. A. Saundara Pandia Nadar.         | 44. Saiyid Diwan Abdul Razzaq Sahib Bahadur.   |
| 22. Mr. K. Sitarama Reddiyar.                   | 45. Khan Bahadur Muhammad Usman Sahib Bahadur. |
| 23. Mr. T. Somasundara Mudaliyar.               | 46. Mr. G. Vandanam.                           |
| 24. Diwan Bahadur K. Suryanarayanamurti Nayudu. | 47. Rao Sahib P. Venkatarangayya.              |

#### Noes.

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|---|--|
| 1. The hon. Sir Lionel Davidson.                              | 10. Mr. C. W. E. Cotton.               |
| 2. The hon. Sir Charles Todhunter.                            | 11. Mr. R. Littlebailes.               |
| 3. The hon. Khan Bahadur Muhammad Habib-ul-lah Sahib Bahadur. | 12. Mr. E. Periyanyagam.               |
| 4. The hon. Mr. K. Srinivasa Ayyangar.                        | 13. Mr. K. K. Shanmukham Chettiyar.    |
| 5. The hon. Mr. P. Ramarayanan.                               | 14. Mr. A. Ramaswami Mudaliyar.        |
| 6. The hon. Rai Bahadur K. Venkata Reddi Nayudu.              | 15. Diwan Bahadur M. Krishnan Nayar.   |
| 7. The hon. Rao Bahadur A. P. Patro.                          | 16. Mr. S. Muttumanioka Achari.        |
| 8. Mr. T. E. Moir.  | 17. Rai Bahadur T. M. Narasimhaachari. |
| 9. Mr. F. J. Richards.  | 18. Mr. R. Srinivasa Ayyangar.         |
|   | 19. Mr. M. Suryanarayana Pantulu.      |

The motion was carried, 47 having voted *for* and 19 *against*.

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*Motion 426.*

Mr. B. MUNISWAMI NAYUDU :—“ I beg to make the following motion :—

426. *To reduce the allotment of Rs. 57,960 for sarishtadar of district and sessions courts by Rs. 100.*

“ Sir, in the pre-reform Council, the hon. Mr. Venkatapati Razu moved a resolution that the chief ministerial officers in district courts and the district collectors' offices should be transferred once in three years. After considerable discussion that resolution was passed and in pursuance of it a Government Order was issued calling on all administrative heads to see that their chief ministerial officers are transferred once in three years. We now see, Sir, that the Government Order has been honoured more in the breach than in the observance. A question was asked in this House by an hon. Member in November as to the number of years for which sarishtadars in district courts have been allowed to remain at the same place. That is Question 1301 of the November proceedings of this House. The answer shows that one sarishtadar has stayed as many as ten years and another five years and so on. Subsequently I asked for information asking for details as to the names of the sarishtadars in the several courts and the number of years of total service they have put in. The answer was that ‘ Government have no information.’ I then put a supplementary question whether the information could be called for. The hon. the Law Member said: ‘ Certainly not; there are a number of courts and we do not want to take the trouble.’ I submit that the transfer of sarishtadars is in the hands of the High Court. When I raised the question as to whether the local Government could not interfere in the matter, it was said that it was not the duty of the local Government and you ruled out the question.

“ The Legislative Council having accepted the principle of the resolution of Mr. Venkatapati Razu, I submit that the Government should see that the administrative heads carry out those instructions. I have also tabled a motion on this point; only for want of time it was not moved. It was one of those resolutions that could not be taken up this session. I bring this motion to draw the attention of the Government to this point and request that Government will take measures to draw the attention of the High Court and see that these sarishtadars are transferred once in three years. It will be seen that the sarishtadar is the chief ministerial officer and he has got great control over appointments and other things, so that if he continues at the same place for a number of years, a number of subordinates suffer. It may be pointed out, Sir, that the chief judicial officer is engaged so much in the disposal of judicial work from 11 a.m. to 5 p.m. and it is only at odd moments that he can attend to the administrative work. That being the case, the sarishtadar naturally has to attend to all this work and he may be tempted to abuse his powers. Hence I say that the effect of transferring the ministerial officer every three years would greatly tend to improve the administration and minimise corruption.

“ But one objection which may be advanced is that in the disposal of business a new man may not be able to know the previous correspondence and so may be at a disadvantage. But there is the head clerk to help him. And the sarishtadar and the head clerk of the same place may be transferred at different periods, in which case neither of them will be at any great disadvantage in the matter of the disposal of routine work of the office.



[Mr. B. Muniswami Nayudu]

[21st March 1922]

“With these words, Sir, I make this motion.”

The hon. Mr. K. SRINIVASA AYYANGAR :—“I may mention for the information of my hon. Friend the mover and also for the information of other hon. Members that we have, if I remember right, more than once drawn the attention of the High Court to the desire expressed in this Council that the District Court sarishtadars should be transferred once in three years. I may say at once that I shall be glad indeed to send in this discussion also to the High Court and also to take other steps that may be necessary. The House knows that we have no direct control over the sarishtadars and that we have no right to transfer them. We can only address the High Court and I shall do so again in regard to this matter.”

Mr. B. MUNISWAMI NAYUDU :—“I certainly sympathise with the hon. the Law Member when he says that he has no control over the District Court sarishtadars. So the only way in which the Council can enforce its desire is by passing this motion to reduce the grant. Anyhow I have no objection to withdraw my motion.”

The motion was by leave withdrawn.

#### Motion 427.

Mr. B. MUNISWAMI NAYUDU :—“Sir, I beg to make the following motion :—

427. *To reduce the allotment of Rs. 80,646 for establishment of temporary sub-courts by Rs. 20,000.*

“This is consequential on the previous resolution that we accepted. We accepted that the provision for temporary sub-judges may be cut down by Rs. 25,000 and consequently when the sub-judges go, the establishments provided for them should also go. Therefore I commend this motion for the acceptance of the House.”

The hon. Mr. K. SRINIVASA AYYANGAR :—“It may be consequential. But I think Rs. 10,000 will be the proper figure and not Rs. 20,000. I am not proposing an amendment, because I am violently against both these reductions.”

Diwan Bahadur M. KRISHNAN NAYAR :—“I move an amendment to the effect that ‘Rs. 20,000’ in this resolution be substituted by ‘Rs. 10,000’. The resolution as amended stands thus :—

*To reduce the allotment of Rs. 80,646 for establishment of temporary sub-courts by Rs. 10,000.”*

The amendment was accepted by the House and the motion as amended was carried unanimously.

#### Motion 428.

Mr. B. MUNISWAMI NAYUDU :—“Mr. President, I beg to make the following motion :—

428. *To reduce the allotment of Rs. 50,000 for travelling allowance by Rs. 5,000.*

21st March 1922] [Mr. B. Muniswami Nayudu]

"As the effect of a previous resolution a number of temporary sub-judges have to go. Therefore I move for a reduction by 10 per cent representing their travelling allowances. But when I gave notice of this motion I had in view the increased provision made under this head. I find, Sir, that in the budget estimates for 1921-22 the amount provided under this head was Rs. 27,000 and in the revised estimate it was Rs. 70,000. As we have decided that a few temporary sub-judges should go the reduction in this case is quite essential."

The hon. Mr. K. SRINIVASA AYYANGAR :—"Mr. President, this small sum in the shape of travelling allowance is provided for in order to enable the district judges to do their inspection duty properly. We have a great deal of complaint about the want of supervision and want of inspection. It seems to me that the way of enforcing such inspection is not by reducing the amount available for travelling allowance. A portion of it is required for transfers of munsifs and sub-judges from one place to another and also the sarishtadars. I hope, Sir, that these sarishtadars will be transferred once in every three years as desired and I hope also that there will be more inspection. Under these circumstances Mr. Muniswami Nayudu may as well withdraw his motion and enforce the inspections and transfers."

The motion was by leave withdrawn.

*Motion 429.*

The following motion was not made :—

Mr. M. SURYANARAYANA PANTULU :—

429. *To reduce the allotment of Rs. 10,800 for duty allowance for district and sessions judges (Provincial Civil Service) by Rs. 100.*

*Motion 430.*

Mr. B. MUNISWAMI NAYUDU :—"Sir, I beg to make the following motion :—

430. *To omit the allotment of Rs. 10,800 for duty allowance for district and sessions judges (Provincial Civil Service).*

"This is a duty allowance. This House has accepted the principle that the duty allowance should not be countenanced. I therefore hope that this Council would accept this motion."

The hon. Mr. K. SRINIVASA AYYANGAR :—"Mr. President, you will see, Sir, that one portion of the duty allowance is non-votable and the House does not propose to touch it. For doing exactly the same duty the Indian officers will get Rs. 150 less. It was, I believe, after a considerable amount of pressure that these officers are getting now the same salary as the Indian Civil Service officers except, of course, the overseas pay. If the House thinks that the pay is too much and that they should have this differentiation between one and the same class of officers who are doing the same duty, then I have nothing more to say."

The motion was then put and was declared carried.



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On the motion of the hon. Mr. K. Srinivasa Ayyangar a poll was taken with the following result :—

*Ayes.*

- |  |   |
|--|---|
| 1. Mr. K. Adinarayana Reddi.               | 27. Mr. C. Venkata Ranga Reddi.                         |
| 2. Mr. V. Appaswami Vandayar.              | 28. Mr. P. Venkatasubba Rao.                            |
| 3. Mr. R. Appaswami Nayudu.                | 29. Diwan Bahadur M. Krishnan Nayar.                    |
| 4. Dr. M. Appalanarasayya Nayudu.          | 30. Rao Bahadur A. S. Krishna Rao Pantulu.              |
| 5. Mr. S. R. Y. Ankineedu Prasad Bahadur.  | 31. Mr. C. V. Venkataramana Ayyangar.                   |
| 6. Rao Bahadur K. Gopalakrishnayya.        | 32. Sriman Biswanath Das Mahasayo.                      |
| 7. Rao Bahadur P. C. Etirajulu Nayudu.     | 33. Rai Bahadur T. M. Narasimbacharu.                   |
| 8. Mr. S. T. Shanmukham Pillai.            | 34. Rao Bahadur C. V. S. Narasimha Raju.                |
| 9. Rao Bahadur T. Balaji Rao Nayudu.       | 35. Mr. K. V. Ramachari.                                |
| 10. Rao Bahadur T. A. Ramalinga Chettiyar. | 36. Rao Sahib U. Rama Rao.                              |
| 11. Mr. C. Ramalinga Reddi.                | 37. Mr. A. Ranganatha Mudaliyar.                        |
| 12. Mr. O. Tanikachala Chettiyar.          | 38. Sriman Sasi Bhushana Rath Mahasayo.                 |
| 13. Mr. W. Vijayaraghava Mudaliyar.        | 39. Mr. T. Siyasankaram Pillai.                         |
| 14. Mr. K. P. Gopala Menon.                | 40. Mr. R. Srinivasa Ayyangar.                          |
| 15. Mr. B. Muniswami Nayudu.               | 41. Mr. A. T. Palmer.                                   |
| 16. Mr. A. T. Mattukumaraswami Chettiyar.  | 42. Mr. K. Prabhakaran Tampan.                          |
| 17. Mr. M. Narayanaswami Reddi.            | 43. Mr. A. D. M. Bavotti Sahib.                         |
| 18. Mr. V. Pakkiriswami Pillai.            | 44. Mr. Ahmad Miran Sahib.                              |
| 19. Mr. P. T. Rajan.                       | 45. Khan Sahib Muhammad Abdur-Rahim Khan Sahib Bahadur. |
| 20. Rao Bahadur A. Ramayya Punja.          | 46. Munshi Muhammad Abdur-Rahman Sahib Bahadur.         |
| 21. Mr. K. Sarabha Reddi.                  | 47. Mr. Saiyid Diwan Abdul-Razzaq Sahib Bahadur.        |
| 22. Mr. W. P. A. Saundara Pandia Nadar.    | 48. Khan Bahadur Muhammad Usman Sahib Bahadur.          |
| 23. Mr. K. Sitarama Reddi.                 | 49. Mr. G. Vandanaam.                                   |
| 24. Mr. T. Somasundara Mudaliyar.          |   |
| 25. Mr. A. T. Tangavelu Nayagar.           |   |
| 26. Mr. V. C. Vellingiri Goundar.          |   |

*Noes.*

- |   |  |
|---|--|
| 1. The hon. Sir Lionel Davidson.                              | 7. The hon. Rao Bahadur A. P. Patro.       |
| 2. The hon. Sir Charles Todhunter.                            | 8. Mr. T. E. Moir.                         |
| 3. The hon. Khan Bahadur Muhammad Habib-ul-lah Sahib Bahadur. | 9. Mr. E. Periyannayagam.                  |
| 4. The hon. Mr. K. Srinivasa Ayyangar.                        | 10. Mr. R. K. Shanmukham Chettiyar.        |
| 5. The hon. Mr. P. Ramarayaningar.                            | 11. Mr. A. Ramaswami Mudaliyar.            |
| 6. The hon. Rai Bahadur K. Venkata Reddi Nayudu.              | 12. Diwan Bahadur R. Venkataratnam Nayudu. |
|   | 13. Mr. Abbas Ali Khan.                    |

The motion was carried, 49 having voted for and 13 against.

*Motion 431.*

The following motion was not made :—

Mr. S. ARPUDASWAMI UDAYAR :—

431. To reduce the allotment of Rs. 35,02,003 for civil and sessions courts by Rs. 50,000.

*Motion 432.*

Rao Bahadur T. BALAJI RAO NAYUDU :—“Sir, I beg to make the following motion :—

432. To reduce the allotment of Rs. 35,02,003 for civil and sessions courts by Rs. 1,53,200.

“Sir, this reduction, which I am now moving for, is exclusive of the reductions already made.”

The hon. Mr. K. SRINIVASA AYYANGAR :—“That cannot be.”

Rao Bahadur T. BALAJI RAO NAYUDU :—“Under this head, Sir, there are some temporary district courts in existence, one in Negapatam and the

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[Mr. T. Balaji Rao Nayudu]

other in Vellore costing about Rs. 75,300. In addition to additional district and sessions courts the number of temporary sub-courts in existence is 20. The speakers of the previous motions explained to the House the undesirability of having additional courts, and added that these courts were not doing enough of work and so on. It is known to many of us that in civil courts the work is going on very slowly. My own experience is that in some courts even very trivial suits are dragged on for months together. I have heard a number of officers who have had experience of the work of the district collectors and sessions judges saying that they cannot possibly exercise the same control over civil courts as they can exercise over the executive staff or the magistracy, because the High Court wants that supervision should be carried on in a judicial manner, so as not to hurt the feelings of the subordinate judges and district munsifs. That being so, I think, that the amount of work that could be done by them would be considerably very small. Under these circumstances I submit for the consideration of the House the question of deferring the increase required by the Government for this year, i.e., Rs. 1,53,200."

The hon. Mr. K. SRINIVASA AYYANGAR :—"Mr. President, we have analyzed every single item and discussed the reduction of the temporary sub-courts, a reduction in the temporary district munsifs' courts, and also a reduction in their establishments. I cannot understand what this general reduction of Rs. 1,53,200 out of Rs. 35,02,003 is meant to effect. It is stated that the district judges are not doing adequate work. I have protested against that statement and nobody has come forward to state that they are not doing the work up to the required standard. All that is stated is that in particular cases particular judges have not enough work. Having already decided to cut down the temporary allotments for sub-courts and munsifs' courts by Rs. 35,000 and Rs. 25,000 as well as the cost of their establishments, if the House is again going to reduce the allotments in a general way without any principle, then I find myself in a difficulty in answering it. The question is, do you want justice to be done? This is the minimum, Sir, which the Government thought it would be necessary to spend for the purpose of dealing out justice to the people, and this is the minimum which the High Court say they require for the purpose of doing justice. You have already cut off a portion of the allotment for temporary sub-judges' courts, you have already cut off a portion of the money allotted for the temporary district munsifs' courts, and if more cutting out is proposed under this head, I should have had some guidance as to the direction in which economy is to be effected. Under these circumstances, I strongly oppose this reduction."

Mr. A. T. MUTTUKUMARASWAMI CHETTIYAR :—"Mr. President, Sir, on account of economy which is necessary especially with the present state of Indian finance, another form of retrenchment to which Government may well have had recourse to is the reduction in the number of sub-judges and district munsifs. There are far too many of them. At one time it used to be said that district munsifs were an over-worked lot. But I am afraid that there is too much exaggeration in this statement. Besides, they are themselves responsible for the accumulation of work in their hands. They give too many adjournments, they give too much latitude to the Bar, they make the securing of justice a costly business to the parties, besides increasing Government expenditure. This department is one in which a great deal of



[Mr. A. T. Muttukumaraswami Chettiyar] [21st March 1922]

quicken up is necessary. The lordly leisureliness of the district munsifs and the sub-judges must give place to smart intellectual grasp of facts and quick arrival at decisions. There are such judges in this country who are prompt without sacrificing justice and I do not see why these alone should not be retained. It is a pity that before the Reformed Councils have fairly begun to grapple with administrative difficulties, the judicial officers' pay has been increased considerably. With these few words, I support the motion."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, in view of the notice I have given of a motion for reducing the total allotment under this head by one lakh of rupees, I crave your permission to move an amendment to this motion, suggesting that 'Rs. 1 lakh' be substituted for 'Rs. 1,53,200', as this reduction has also been proposed under the same head. I may also state that in view of the fact that we have already reduced the allotment by Rs. 80,800, the balance to be reduced according to the present motion would come to Rs. 19,200, to make up the total of one lakh of rupees now proposed to be reduced. I wish to make a few remarks in support of this amendment, if you, Sir, will be pleased to grant me permission to move it, that is, to substitute 'Rs. 1 lakh' for 'Rs. 1,53,200'."

The hon. the PRESIDENT :—" As the hon. Member has not given due notice of his amendment, it is for the House to say whether he should be given the permission asked for. The motion before the House is 'To reduce the allotment of Rs. 35,02,003 for civil and sessions courts by Rs. 1,53,200'. The hon. Member's proposed amendment to that motion is to substitute 'Rs. 1 lakh' for 'Rs. 1,53,200'. It is my duty to inquire if any hon. Member objects to the amendment going forward. Does any hon. Member object? "

No member having objected, the permission to move the amendment was granted.

Rao Bahadur A. S. KRISHNA RAO PANTULU :—" Sir, I do not wish to take up much time, but only wish to point out that this sum of Rs. 1 lakh will only represent a little less than 3 per cent of the total allotment for civil courts. The attention of the House has already been drawn to the various items from which retrenchment could be effected. I do not wish to affect the permanent courts, nor the pay of their establishments nor their other allowances. Even taking it out of account, we find that provision is made for Rs. 1,56,000 for temporary sub-judges, Rs. 86,400 for temporary district munsifs, Rs. 80,646 for establishments for temporary sub-courts, Rs. 75,972 for establishments for temporary district munsifs' courts, a lump provision of Rs. 40,000 for an additional district court, Negapatam, and a lump provision of Rs. 33,000 for additional sessions court, Coimbatore. All of these come up to nearly Rs. 5 lakhs, even without taking into account the permanent courts or their establishments. So, the total reduction which I propose by means of this motion is certainly very reasonable because we ask for one lakh including Rs. 80,800 already decided upon by the vote of the House, and because similar reductions have already been effected under other heads. I only desire to make a further increase to the reduction already made. I hope my friend Mr. Balaji Rao Nayudu will have no objection to accept my amendment, as it is more modest than the reduction proposed by him. I only want that the proposal should be a modest one."

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The hon. Sir LIONEL DAVIDSON:—"I presume, Sir, the effect of this amendment will be to effect a further reduction of Rs. 19,200, as the House has already agreed to reductions to the aggregate amount of Rs. 80,800. This being so I wish very strongly to oppose any further reduction in the allotment if there is any risk of its being distributed against the sessions courts, with which I am concerned as they relate to criminal justice. The present number of sessions courts is not adequate to cope with the work which comes before them. We have constantly to create additional sessions courts, and even so it is a matter of extreme difficulty to get through the criminal work on hand without causing undue hardship to those who have to face the strain of dealing with it.

"There is another point which might be taken: I refer to the establishment of the courts of special judges in Malabar. I presume the House in general is fully agreed that no time whatsoever ought to be lost in carrying through the disposal of the heavy files of criminal cases arising out of the disturbances in Ernad, Walavanad and other parts of Malabar. If any further reduction in this allotment should be applied in such a way as to check the rate of such disposal, I think it would be a matter for very grave regret."

The amendment of Mr. A. S. Krishna Rao Pantulu to substitute the words 'Rs. 1 lakh' for the words 'Rs. 1,53,200' occurring in motion was put and carried.

The motion as amended read thus:—

*To reduce the allotment of Rs. 35,02,003 for civil and sessions courts by one lakh.*

The above motion was put and carried.

On the motion of the hon. Sir Lionel Davidson, a poll was taken with the following result:—

*Ayes.*

- |   |   |
|---|---|
| 1. Mr. K. Adinarayana Reddi.                    | 27. Diwan Bahadur R. Venkataratnam Nayudu.      |
| 2. Mr. S. R. Y. Ankinedu Prasad.                | 28. Diwan Bahadur M. Krishnan Nayar.            |
| 3. Dr. M. Appalarasayya Nayudu.                 | 29. Rao Bahadur A. S. Krishna Rao Pantulu.      |
| 4. Mr. R. Appaswami Nayudu.                     | 30. Mr. C. V. Venkataramana Ayyangar.           |
| 5. Rao Bahadur V. Appaswami Vandyar.            | 31. Sriman Biswanath Das Mahasayo.              |
| 6. Rao Bahadur P. C. Etirajulu Nayudu.          | 32. Rao Bahadur C. V. S. Narasimha Raju.        |
| 7. Rao Bahadur K. Gopalakrishnayya.             | 33. Mr. K. V. Ramachari.                        |
| 8. Rao Bahadur T. Balaji Rao Nayudu.            | 34. Rao Sahib U. Rama Rao.                      |
| 9. Rao Bahadur T. A. Ramalinga Chettiayr.       | 35. Mr. A. Ranganatha Mudaliyar.                |
| 10. Mr. C. Ramalinga Reddi.                     | 36. Sriman Sasi Bhushana Kath Mahasayo.         |
| 11. Mr. O. Tanikachala Chettiayr.               | 37. Mr. T. Sivasankaram Pillai.                 |
| 12. Mr. W. Vijayaraghava Mudaliyar.             | 38. Mr. S. Arpudawami Udaiyar.                  |
| 13. Mr. K. P. Gopala Menon.                     | 39. Mr. A. T. Palmer.                           |
| 14. Mr. K. A. Kandaswami Kandar.                | 40. Mr. K. Prabhakaran Tampan.                  |
| 15. Mr. B. Muniswami Nayudu.                    | 41. Mr. Qadir Nawaz Khan Sahib.                 |
| 16. Mr. A. T. Muttukumaraswami Chettiayr.       | 42. Mr. A. D. M. Bavotti Sahib.                 |
| 17. Mr. M. Narayaswami Reddi.                   | 43. Mr. Ahmad Miran Sahib.                      |
| 18. Mr. C. Natesa Mudaliyar.                    | 44. Khan Sahib Muhammad Abdur-Rahim Khan Sahib. |
| 19. Mr. V. Pakkiriswami Pillai.                 | 45. Munshi Muhammad Abdur-Rahman Sahib.         |
| 20. Rao Sahib A. Ramayya Punja.                 | 46. Mr. Saiyid Diwan Abdul-Razaq Sahib.         |
| 21. Diwan Bahadur K. Suryanarayanamurti Nayudu. | 47. Khan Bahadur Muhammad Usman Sahib Bahadur.  |
| 22. Mr. A. Tangavelu Nayagar.                   | 48. Mr. G. Vandanam.                            |
| 23. Mr. T. C. Tangavelu Pillai.                 | 49. Rao Sahib P. Venkatarangayya.               |
| 24. Mr. V. C. Vellingiri Goundar.               |   |
| 25. Mr. C. Venkata Ranga Reddi.                 |   |
| 26. Mr. P. Venkatasubba Rao.                    |   |



[21st March 1922]

*Noes.*

- |                                   |   |
|-----------------------------------|---|
| 1. The hon. Sir Lionel Davidson.  | 9. Mr. F. J. Richards.                  |
| 2. " Sir Charles Todhunter.       | 10. Mr. C. W. E. Cotton.                |
| 3. " Khan Bahadur Muhammad        | 11. Mr. R. Littlehailes.                |
| Habib-ul-lah Sahib Bahadur.       | 12. Mr. E. Periyarayagam.               |
| 4. " Mr. K. Srinivasa Ayyangar.   | 13. Mr. R. K. Shanmukham Chettiyar.     |
| 5. " Mr. P. Ramarayaningar.       | 14. Mr. A. Ramaswami Mudaliyar.         |
| 6. " Rai Bahadur K. Venkata Beddi | 15. Mr. S. Muttumanicka Achari.         |
| Nayudu.                           | 16. Mr. R. Srinivasa Ayyangar.          |
| 7. " Rao Bahadur A. P. Patro.     | 17. Mr. M. Suryanarayana Pantulu.       |
| 8. Mr. T. E. Moir.                | 18. Rao Bahadur T. Numbermal Chettiyar. |

The motion was carried, 49 having voted *for* and 18 *against*.

*Motions 433 and 434.*

The following motions fell through as they related to the same matter covered by motion 432 :—

Rao Bahadur A. S. KRISHNA RAO PANTULU :—

433. *To reduce the allotment of Rs. 35,02,003 for civil and sessions courts by Rs. 1,00,000.*

Mr. B. MUNISWAMI NAYUDU :—

434. *To reduce the allotment of Rs. 35,02,003 for civil and sessions courts by Rs. 2,00,000.*

*Motion 435.*

Rao Sahib U. RAMA RAO :—" Mr. President, I beg to make the following motion :—

435. *To reduce the allotment of Rs. 48,000 for three judges of the Court of Small Causes, Madras, by Rs. 12,000.*

" Sir, the average number of suits instituted for the five years ending 1918 was 17,327. In the year 1919 the number was 14,621, which means that the number was reduced by 2,706. In the year 1920 the number was 14,085, which means that it was 3,242 less than the average for the five years ending 1918 and 621 less than the number in 1919. I cannot get the exact number for 1921, but I am told that it is still less. So, when the number of suits has gone down, I think it is but proper that the number of judges should also be reduced."

The hon. Mr. K. SRINIVASA AYYANGAR :—" Sir, I would be extremely pleased if the file justified us to reduce the number. We cannot of course discharge those who are already permanent officers. The judges of the small cause courts are also required to clear off the arrears in the city civil court when the files are heavy.

" Unfortunately, last year, the file has shown a tendency to rise again.

In 1918 it was 13,764, in 1919 it rose to 14,621 and in

2 p.m.

1:20 it fell to 14,000. In 1921 it again rose to 15,359.

There is no steady fall and it is impossible to say that the number of judges who are now permanently there is too much."

The motion was by leave withdrawn.

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*Motions 436 to 453.*

The hon. the PRESIDENT :—“ The half a day allowed by His Excellency for this demand is now over and the following motions from 436 to 453 will go out of the agenda :—

Rao Bahadur A. S. KRISHNA RAO PANTULU :—

436. *To omit the allotment of Rs. 20,000 for revision of salaries of judges and the registrar of courts of small causes.*

Diwan Bahadur M. KRISHNAN NAYAR :—

437. *To omit the allotment of Rs. 20,000 for revision of salaries of judges and the registrar of courts of small causes.*

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—

438. *To omit the allotment of Rs. 20,000 for revision of salaries of judges and the registrar.*

Mr. T. SOMASUNDARA MUDALIYAR :—

439. *To omit the allotment of Rs. 20,000 for the revision of salaries of judges and the registrar of small cause courts.*

Mr. R. SRINIVASA AYYANGAR :—

440. *To reduce the allotment of Rs. 20,000 for revision of salaries of judges and the registrar, small cause courts, by Rs. 10,000.*

Rao Bahadur T. BALAJI RAO NAYUDU :—

441. *To reduce the allotment of Rs. 1,79,389 for courts of small causes by Rs. 42,100.*

Mr. B. MUNISWAMI NAYUDU :—

442. *To reduce the allotment of Rs. 1,79,389 for courts of small causes by Rs. 10,000.*

Rao Bahadur P. C. ETIRAJULU NAYUDU :—

443. *To reduce the allotment of Rs. 45.79 lakhs by Rs. 2,50,000.*

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—

444. *To reduce the total allotment of Rs. 45.79 lakhs for Administration of Justice by Rs. 100.*

Rao Bahadur P. C. ETIRAJULU NAYUDU :—

445. *To reduce the allotment of Rs. 45.79 lakhs by Rs. 100.*

Mr. V. P. PAKKIRISWAMI PILLAI :—

446. *To reduce the allotment of Rs. 45.79 lakhs under Demand X by 5.00 lakhs.*

Mr. C. RAMALINGA REDDI :—

447. *To reduce the allotment of Rs. 45.79 lakhs under Demand X by Rs. 2,50,000.*

Mr. C. RAMALINGA REDDI :—

448. *To reduce the allotment of Rs. 45.79 lakhs under Demand X—Civil Justice by Rs. 100.*

Mr. O. TANIKACHALA CHETTIYAR :—

449. *To reduce the total allotment of Rs. 45.79 lakhs for Civil Justice by Rs. 2,50,000.*



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Mr. O. TANIKACHALA CHETTIYAR :—

450. *To reduce the total allotment of Rs. 45·79 lakhs by Rs. 100.*

Mr. C. V. VENKATARAMANA AYYANGAR :—

451. *To reduce the allotment of Rs. 45·79 lakhs for district and sessions judges by Rs. 1,000.*

Mr. W. VIJAYARAGHAVA MUDALIYAR :—

452. *To reduce the allotment of Rs. 45·79 lakhs for Civil Justice by Rs. 2,50,000.*

Mr. W. VIJAYARAGHAVA MUDALIYAR :—

453. *To reduce the allotment of Rs. 45·79 lakhs by Rs. 100.*

The question that the Government be granted a sum of Rs. 45·79 lakhs less 1 lakh under Demand X—Civil Justice was put and carried."

The grant was made.

The Council adjourned for lunch at 2-4 p.m. and re-assembled at 2-45 p.m.

#### DEMAND XI—CRIMINAL JUSTICE.

The hon. Sir LIONEL DAVIDSON :—"I have the honour, Sir, to move for a grant not exceeding Rs. 7·89 lakhs for Criminal Justice."

*Motion 454.*

The following motion was not made :—

Mr. B. MUNISWAMI NAYUDU :—

454. *To reduce the allotment of Rs. 73,159 for Presidency Magistrates' Courts by Rs. 3,700.*

*Motion 455.*

Rao Bahadur T. A. RAMALINGA CHETTIYAR :—"I beg to make the following motion :—

455. *To omit the allotment of Rs. 10,400 for two stipendiary first-class magistrates and establishment for Tiruppur and Paramagudi.*

"Sir, we do not clearly know what the object is of providing these two stipendiary first-class magistrates.

"There were two motions made in this House with reference to this. I believe there was a resolution passed or accepted by the Government in the old Council under which it was proposed to try stationary magistrates in place of the subdivisional magistrates who are touring, to avoid the inconvenience to the clients who had to go about in search of the magistrate. The second motion was by my friend Mr. Venkataramana Ayyangar for the separation of judicial and executive functions. It is possible that this arrangement is suggested by the Government to try an experiment to give effect to the separation. If it is the latter, I am in full sympathy with the object itself. But I cannot see how this provision can really do anything in the way of giving effect to that resolution. I have got some information from the hon. the Home Member with reference to the work of these magistrates. I wanted to know what these magistrates were expected to do and he was pleased to send to me a copy of the Government Order which shows that these first-class magistrates will be in charge only of original cases and will try original cases as stationary magistrates; and the criminal appeals and cases under the security sections will be under the subdivisional magistrates.

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This was the information I was able to obtain from the hon. the Home Member with reference to these magistrates. If this is the case, it would not in any way help to realize the object of the motion I referred to, viz., the separation of the judicial and executive powers. These magistrates will be under the Collectors and will only be giving relief to the ordinary subdivisional officers who will still be in charge of cases under the Criminal Procedure Code. And further, Sir, the experiment of the separation will not have been tried properly in this way. Speaking for Coimbatore, Sir, I say these officers are simply unnecessary. There are, I believe, three tahsildars in the district invested with first-class powers and they are doing first-class magistrate's work and they are more than enough to meet the exigencies of the district. It so happens that two of them are in one division, Erode, and one is in Coimbatore. If one of the tahsildars is transferred to Tiruppur he could certainly give necessary relief to the Pollachi subdivisional officer. And then one of the other two magistrates will be at Erode itself. I believe the present proposal is to give relief to Erode and Pollachi subdivisional officers by taking away one taluk from each : Dharapuram and Tiruppur. These two taluks are, I believe, proposed to be placed under the first-class magistrate and all original cases from these two taluks will go before the stationary magistrate at Tiruppur. Now, as I say, there is a tahsildar in Dharapuram with first-class powers and he is dealing with criminal cases and if the other tahsildar from Erode or Coimbatore is transferred to Tiruppur he will be giving the necessary relief to the subdivisional magistrate at Pollachi. And if this is accepted there is absolutely no necessity for this expenditure. As I said, if this is intended as an experiment for the separation of the judicial and executive functions, it would not really do. What is wanted is a trial to be given in a different way by taking away the cases from the jurisdiction of the revenue officers and the Collector and by appointing proper judicial officers under the district judge. So, Sir, I strongly think that this expenditure is absolutely unnecessary."

The hon. Sir LIONEL DAVIDSON :—" Surely, Sir, the hon. Member is rather confusing 'his wishes' with the wishes of the Council when he speaks of 'our wishes' being to try development in the direction of the separation of judicial and executive functions by a system dependent on supervision by the district courts. I was under the impression, Sir—and I had the opportunity of hearing the debate in this Council—that the proposal to separate judicial from executive functions fell to the ground in this Council because a large majority of the House differed emphatically from the corollary embodied in the resolution moved that the entire control should vest in the district and sessions judge and the High Court. That at least is my impression and I mention it in order to bring out how the hon. Member is confusing his personal views with those of the Legislative Council as a whole.

"These two appointments are the direct outcome, as he has told us, of a resolution moved in this Council in November 1919 by Mr. Siva Rao, I think, who made proposals to extend the system of stationary magistrates by divesting revenue divisional officers of their magisterial functions and appointing stationary magistrates of the first class in each district with exclusive powers to try criminal cases. I must confess that I was never particularly enamoured of the proposal though there is something to be considered in it. And I think that, if I had been present during the debate, I should not have accepted the motion. But, as a matter of fact it did not



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fall to me to deal with the resolution, for my *locum tenens*, Mr. Knapp, was then in charge. In consequence, however, of his qualified acceptance of the resolution subject to certain modifications which he indicated as necessary to convert the measure into an experiment in the direction desired, it fell to my lot to carry out the arrangements which seemed to him to be good. The idea seemed good to me also and I was ready to go on with it in consultation with the Revenue Board. A very careful examination was made of the conditions of the districts that were *prima facie* most in need of relief of the kind contemplated. This resulted in the conclusion that the districts of Coimbatore and Ramnad were in greatest need. Time does not permit of my going into the details justifying that conclusion or traversing the details adduced by the hon. the Mover.

“All that I can now say is that a very careful examination was made of the volume of magisterial and revenue work devolving on the various subdivisional magistrates, deputy tahsildars and sub-magistrates in the districts of Coimbatore and Ramnad as well as of other districts and the result was the proposal to which exception is now taken. It was not at all hastily worked out or given effect to in a hurry. One of the two first-class magistrates has already joined duty in Coimbatore, and for all I know, the other may also by now have joined duty in Ramnad or will shortly do so, for orders have gone to the District Magistrate to appoint a suitable person to the post and it has been intimated to him that we have included provision for the post in the budget. It will of course be quite easy to arrange for the discontinuance of either of those appointments if the House should express its desire to do so or if the Government on due consideration of this discussion desire to recede from the experiment entered into after so much and so careful deliberation. But, if I were going to remain in office, I should not consent to depart from that part of the scheme which I gather is most unacceptable to the hon. the Mover. I am personally responsible for the stipulation that these first-class special magistrates should not deal with the ordinary maintenance of the peace, for I am satisfied that I do not think that any stationary magistrate can adequately deal with that class of work. I am quite certain that in troublous times like these you cannot by sitting in your court dealing with cases that are brought to you day by day gain any adequate idea of the general condition of the parts of the district in which you have to work. The man who knows the real facts is the man who is touring in the area and he alone can know what is going on. It is he who is in a position to judge whether it is necessary to take security from persons who are disturbing or are likely to disturb the public peace, and he who ought to have general control over the magistrates in the area. He ought to deal with their calendars and he ought to hear appeals against their decisions in order that he may know what class of work is coming before them and how they are dealing with it and whether or not it is necessary to tender them advice. I entirely agree with Mr. Gopalakrishnayya who said this morning that one patent defect in the working of the civil court is the lack of personal inspection and personal supervision and that the state of magisterial courts is far better because there you have such supervision. The same point was, I think, taken by Mr. A. Ranganatha Mudaliyar. It is all very well to talk of not interfering with judicial independence and of the statutory discretion of sub-magistrates; but speaking as a practical man I may tell the House that I regard much of such talk as nonsense.

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A sub-magistrate must learn to find his footing when he first takes up office, and it is quite proper that he should receive advice on general matters, though not in regard to the disposal of particular cases. He should ask and receive instructions—‘instructions’ is the wrong word, for, what I have in mind is general advice—as to how to deal with classes of cases according as situation may require. The giving of such advice is one of the most important duties of a subdivisional magistrate and a district magistrate and the only way in which he can discharge it properly is by keeping in full touch with the work of the subordinate magistrates and by personally reading their calendars. I have been a district magistrate for a good while at one time or another and I made it an invariable rule personally to examine a large proportion of the calendars which came from sub-magistrates of the second and third class, and all the calendars from subdivisional and first-class magistrates. I found that this gave me invaluable insight into the character of these men and their capacity to exercise their judicial discretion wisely. I do not think I was ever so foolish as to give a magistrate orders or advice as to how to deal with a particular case. I cannot at least recollect any such case and it would have been against my principles to do so. But I remember perfectly, after a case had been dealt with, telling a magistrate that I thought he had exercised his discretion very badly in the awarding of the sentence. I am quite prepared to justify action of that kind. Supervision of this nature must continue to vest in the subdivisional magistrates and it is they who ought also to be responsible for dealing with security cases in their divisions. If the House as a whole does not want these first-class stationary magistrates subject to the limitation which I consider necessary, then I shall be quite ready to advise Government to strike out not the whole of this allotment but so much of it as is not due for the payment of charges incurred during the month of March. But I still think that these two appointments might furnish useful material towards the further consideration of the question of the separation of judicial and executive powers which I have no doubt will at some time or other come before the Government of Madras for a more detailed examination than that it has received in the past. There has indeed been some examination in the past, but not in all its details. Our idea was that these two appointments would perhaps give us further material of some value for arriving at a decision on the question how far it is possible to go in the direction of separating judicial and executive functions. For this reason I should personally regret deletion of this grant. Our orders were that after these appointments had been in force for a year, a report should be made to Government in regard to the success of the experiment.”

Rao Bahadur A. S. KRISHNA RAO PANTULU:—“Sir, I really find it difficult to approve of the idea of appointing these magistrates with the limitations suggested by the hon. the Home Member. If the separation of the judicial and executive functions is to prove of real benefit in this country, there must not be such limitations as have been sought to be imposed on them in the discharge of their duties. When my friend Mr. Gopalakrishnayya, whilst speaking on a motion regarding civil justice, drew a comparison regarding the instructions issued by district magistrates in the conduct of work of subordinate magistrates and deplored the want of such an arrangement in the matter of civil courts, I felt that something wrong might come out of that statement. I had then no opportunity to



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express my views regarding that point. But, Sir, the remarks of the hon. the Home Member have necessitated my reference to that aspect of the question. So long as the Criminal Procedure Code gives certain powers to the magistrates or other officers concerned and vests them with sufficient discretion in certain matters, it is unfair and undesirable that the district magistrate or the officer above should impose any restrictions or give any instructions, which may be construed as directions to be obeyed, in matters in which they are discharging their functions."

The hon. the PRESIDENT :—"I am sorry to interrupt the hon. Member. Do I understand that it is seriously contended that the question as to what control the district magistrate should exercise over the subordinate magistrates, could be discussed, much less disposed of, on this issue? I am afraid the hon. Member is travelling very wide of the issue on hand?"

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"I shall presently point out the connexion. The hon. the Home Member referred to it as one circumstance to be considered in bringing these new stipendiary magistrates into existence and in giving them the powers—"

The hon. Sir LIONEL DAVIDSON :—"May I say, Sir, that my reference was slightly due to the fact that the hon. the Mover drew particular attention to it and therefore it would be less out of order than in the case of Mr. Krishna Rao."

The hon. the PRESIDENT :—"If on these budget motions we are to discuss very much wider questions, the chances are that we shall not deal with those wider questions satisfactorily and that the limited time allotted to the House for dealing with the finances of the Province will be frittered away. By all means, if it is the wish of the House that it should now discuss at length the nature of the control that the district magistrate should exercise over his subordinate magistrates, and as to whether he should or should not issue instructions, and as to what he should say and what he should not say, the House may do it. But there is the chance that within the time limits imposed upon it the House will not be able to deal with the numerous resolutions on the finances of the Province which are now on the agenda."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"I quite agree with you, Sir, and I appreciate the point that has been presented. I was only going to say that we must not accept any such statements from the hon. the Home Member—not that I wanted an elaborate discussion on the matter—because it will be creating a dangerous precedent if such directions are to be issued to those officers."

The hon. Sir LIONEL DAVIDSON :—"May I rise to point out that the hon. Member may well follow your ruling?"

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"It will be dangerous to allow district magistrates to interfere in such matters and give such directions. That is all that I wish to say in regard to that question."

"Now, regarding this question which has been moved by Mr. Ramalinga Chettiyar, the point for consideration is that if the appointment of these magistrates is likely to be of real use in the contemplated scheme of separating the executive from the judicial functions, it will be our duty to support the retention of these magistrates. What I still find it difficult to comprehend is whether it is really calculated to effect the object we all have in

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view. It is not really calculated to give effect to the intention or the partially expressed intention of the House—I say partially expressed because there was then a debate which cannot be considered complete—regarding the long-desired reform of the separation of the judicial and executive functions. Unless the hon. the Home Member will make further modifications in the proposals which he has made and enunciated and give them real powers in all matters coming within their cognizance and unless the experiment is tried in a way so as to be really useful and so as to serve as an example in other places, it is very difficult to vote for the retention of this provision in the budget.”

Mr. K. P. GOPALA MENON :—“ Mr. President, Sir, I am not prepared to enter into the discussion as to whether or not this will lead to the separation of the executive and judicial functions. But, coming as I do from Madura and having somewhat to do with the Ramnad district also, I would certainly say that there is absolutely no necessity for having a separate first-class magistrate. Paramakudi is a small town on the railway line from Rameswaram to Madura in the Ramnad district, and in the Ramnad district we have got a first-class magistrate at Ramnad, and another at Sivaganga. This being the case I doubt very much whether there is any necessity for having another separate first-class magistrate. I had occasions to go to Sivaganga and the other first-class magistrate’s court very often. The present first-class magistrates can finish their work every day before 1 o’clock. As a matter of fact, in the Chettinad, the Chettis are very averse to go to criminal courts which is a well-known fact and there is a subdivisional court which has practically very little work to do on the criminal side at Devakottai.

“ Added to all these, we have got another first-class magistrate for summary suits in Ramnad and Manamadura. I should therefore think that while we are going on finding the ways and means to curtail our expenditure we must see whether there is any necessity for these officers. Of course some worthy gentleman might have moved a resolution in 1919 for some purpose or other but now it is evident there is no necessity for these officers. As I was saying the other day, as a result of the sanctioning of so many of these first-class magistrates, the district magistrates do no work on the criminal side. I know of one instance where a lawyer in Madura sought to file a bail petition in a case usually filed before the first-class magistrate at Sivakasi but the district magistrate refused to entertain the petition. If only the district magistrates find time to hear such applications for bail, it would be much convenient to the profession and to the poor client who will have to go all the way to Sivakasi. So far as the district of Ramnad is concerned, the location of a first-class magistrate’s court at Paramakudi is absolutely uncalled for. And we are not rolling so much in wealth now as to see as an experiment whether the separation of judicial and executive functions is possible by having such courts. I therefore support the motion for reduction.”

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—“ Sir, I understood the hon. Sir Lionel Davidson to say that this is an experiment in the direction of separation of judicial and executive functions. But with the conditions that he has imposed upon it, I do not think this experiment will ever lead to



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the separation of the executive from the judicial functions of the district magistrata. I am therefore of opinion that this provision is unnecessary and I urge the reduction."

Rao Sahib U. Rama Rao moved the closure which was carried unanimously.

The main motion was then put and declared carried.

The hon. Sir Lionel Davidson demanded a poll which was taken with the following result :—

*Ayes.*

- |   |  |
|---|--|
| 1. Mr. K. Adinarayana Reddi.              | 22. Mr. P. Venkatasubba Rao.                   |
| 2. Dr. M. Appalanaraya Nayudu.            | 23. Diwan Bahadur M. Ramachandra Rao Pantulu.  |
| 3. Rao Bahadur P. C. Etirajulu Nayudu.    | 24. Diwan Bahadur M. Krishnan Nayar.           |
| 4. Rao Bahadur K. Gopalakrishnayya.       | 25. Rao Bahadur A. S. Krishna Rao Pantulu.     |
| 5. Mr. S. T. Shanmukham Pillai.           | 26. Mr. C. V. Venkataramana Ayyangar.          |
| 6. Rao Bahadur T. Balaji Rao Nayudu.      | 27. Sriman Biswanath Das Mahasayo.             |
| 7. Rao Bahadur T. A. Ramalinga Chettiyar. | 28. Rai Bahadur T. M. Narasimhaacharlu.        |
| 8. Mr. C. Ramalinga Reddi.                | 29. Rao Bahadur C. V. S. Narasimha Raju.       |
| 9. Mr. O. Tanikaobala Chettiyar.          | 30. Rao Sahib U. Rama Rao.                     |
| 10. Mr. K. P. Gopala Menon.               | 31. Mr. A. Ranganatha Mudaliyar.               |
| 11. Mr. K. A. Kandaswami Kandar.          | 32. Sriman Sasi Bhushana Kath Mahasayo.        |
| 12. Mr. B. Muniswami Nayudu.              | 33. Mr. M. R. Seturatnam Ayyar.                |
| 13. Mr. A. T. Muttukumaraswami Chettiyar. | 34. Mr. R. Srinivasa Ayyangar.                 |
| 14. Mr. M. Narayanaswami Reddi.           | 35. Mr. T. C. Srinivasa Ayyangar.              |
| 15. Mr. C. Natesa Mudaliyar.              | 36. Mr. S. Arpudawami Udaiyar.                 |
| 16. Mr. V. Pakkiriswami Pillai.           | 37. Mr. A. D. M. Bavotti Sahib Bahadur.        |
| 17. Rao Bahadur A. Ramayya Punja.         | 38. Mr. Ahmad Miran Sahib Bahadur.             |
| 18. Mr. W. P. A. Saundara Pandia Nadar.   | 39. Khan Bahadur Muhammad Usman Sahib Bahadur. |
| 19. Mr. K. Sitarama Reddi.                | 40. Mr. G. Vandanam.                           |
| 20. Mr. A. Tangavelu Nayagar.             |  |
| 21. Mr. V. C. Vellingiri Goundar.         |  |

*Noes.*

- |   |                                     |
|---|-------------------------------------|
| 1. The hon. Sir Lionel Davidson.                              | 10. Mr. C. W. E. Cotton.            |
| 2. The hon. Sir Charles Todhunter.                            | 11. Mr. R. Littlehales.             |
| 3. The hon. Khan Bahadur Muhammad Habib-ul-lah Sahib Bahadur. | 12. Mr. E. Periyannayagam.          |
| 4. The hon. Mr. K. Srinivasa Ayyangar.                        | 13. Mr. R. K. Shanmukham Chettiyar. |
| 5. The hon. Mr. P. Ramarayanagar.                             | 14. Mr. A. Ramaswami Mudaliyar.     |
| 6. The hon. Rai Bahadur K. Venkata Reddi Nayudu.              | 15. Mr. S. B. Y. Ankinedu Prasad.   |
| 7. The hon. Rao Bahadur A. P. Patro.                          | 16. Mr. R. Appaswami Nayudu.        |
| 8. Mr. T. E. Moir.  | 17. Mr. T. C. Tangavelu Pillai.     |
| 9. Mr. F. J. Richards.  | 18. Mr. A. T. Palmer.               |
|   | 19. Rev. W. Meston.                 |

The motion was carried, 40 having voted for and 19 against.

*Motions 456 and 456-A.*

The following motions were not made :—

Rai Bahadur T. M. NARASIMHACHARLU :—

456. To omit the allotment of Rs. 21,600 for revision of pay of establishment in criminal courts.

MR. A. T. PALMER :—

456-A. To omit the allotment of Rs. 600 for charges on account of European vagrants.

The question that the Government be granted a sum of 7.89 lakhs after deducting the sum of Rs. 10,400 (i.e., for a grant of 7.78 lakhs) under Demand XI—Criminal Justice was then put and carried.

The grant was made.

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DEMAND XII—JAILS.

The hon. Mr. K. SRINIVASA AYYANGAR :—" Mr. President, I move for a grant not exceeding Rs. 35·67 lakhs for Jails."

*Motion 457.*

Mr. C. V. VENKATARAMANA AYYANGAR :—" Sir, I beg to make the following motion :—

457. *To omit the allotment of Rs. 8,280 for superintendent, central jails. (1 camp jail, 690—1,150).*

"I do so, Sir, only for the purpose of getting some information which would be very necessary. In page 101 of the budget this question is dealt with. Regarding the camp jails there were originally three superintendents which now becomes four with the one mentioned just above in the budget page. Reference to this in the Financial Statement at page 47 does not make matters a whit clearer. I simply want to know the policy of the Government towards the camp jails in the coming year. I referred to the page in the Financial Statement just to show that so far as this increase is concerned, it does not seem to be the idea to have more camp jails in places other than Bellary. If all these camp jails are to be in Bellary, I do not understand how there is any necessity for the increase in the number of superintendents."

The hon. Mr. K. SRINIVASA AYYANGAR :—" My hon. Friend is missing the whole thing. There are only five and three superintendents on various grades, five for central jails, three for district jails. I think the 'do.' in the middle column has misled him."

Mr. C. V. VENKATARAMANA AYYANGAR :—" The 'do.' has not misled me, Sir, but has made me ask for information. It is not explained even in the Financial Statement."

The hon. Sir CHARLES TODHUNTER :—" The Finance Department will take the blame upon themselves for the 'do.'"

Mr. C. V. VENKATARAMANA AYYANGAR :—" I do not blame the department Sir. Much was said of the work of the Assistant Secretary of the department the other day. I will omit all my reference to that because somebody else has taken the responsibility for it. So far as the jails, the camp jails, are concerned, we are told that there are a number of cases pending in Malabar about the Mappilla rebellion and there seems to be much chance in the number of prisoners being increased without any limit. I wish to know whether it is the intention of the Government to group these prisoners at Bellary or whether it is their intention to send them to various places retaining the prisoners in Bellary only for a temporary period till arrangements are made for receiving these prisoners in other jails. If the Government agrees to the suggestion once made of releasing all prisoners under one month's imprisonment there would be a lot of jails available for imprisoning the Mappilla prisoners. It is desirable for us to know what the idea of the Government is as regards the very large number of Mappilla prisoners under trial and those already in jail. It is with that view I move for the reduction. I want the information and it is for that purpose that I move this motion."

The hon. Mr. K. SRINIVASA AYYANGAR :—" I hope I have made it quite clear that there is going to be only one superintendent for the camp jail at Bellary. At present—I have not got the accurate figures—there are about 4,500



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Mappilla prisoners at Bellary. There are, I believe, 2,000 Mappilla prisoners distributed in the various jails. The congestion in the jails is so great that if at any moment there is any outbreak of any epidemic, the position will be extremely serious. We want, if possible, to relieve this congestion from the ordinary jails and to take the prisoners as fast as we can into the Bellary jail which is being fashioned for that purpose. It is our idea to restrict imprisonment as much as possible but that depends upon the magistrates and not upon us. It is our intention to avoid imprisoning persons if we can possibly help it and if they deserve it. If incidentally we can get some sum of money by way of fines, it is the intention of the Government to utilize it for the restoration of the Malabar district. But, as I said, the matter does not depend entirely upon us but it depends upon the magistrates and we are not inclined to give any direction or order to the magistrates. We shall, however, instruct our prosecuting agency to ask for fines in addition to imprisonment in all suitable cases wherever they think the prisoner can be allowed to be free on such payment and we propose to suspend or remit the imprisonment conditioned on good conduct. It is also our intention to carefully go through the warrants of all the Mappilla prisoners hitherto convicted and adopt a similar procedure in suitable cases. But we cannot let out persons guilty of outrages and allow them to go to places where the Hindus are even now in terrible fear of them. That, Sir, is the general position and the details have to be worked out. There are, I understand, about 15 to 20 thousand cases registered on complaints which will have to be dealt with by magistrates. How many of these persons will have to be taken into jails I am not able to say. Perhaps, I will be obliged to come before the House for a large supplementary grant in course of time. I want to mention this also to the House, that we are trying to arrange for work for the Mappilla prisoners in the various places so that we may get something out of their labour to set against the expenditure we have to incur. We have now put up an annexe to the jail at Coimbatore wherefrom my hon. Friend comes with a view to give some work there in expanding the walls of the jails and other similar work. If remunerative work is available in other places at a not prohibitive cost, it is our intention to take away these prisoners and relieve the Bellary jail as far as possible. Till all these cases are dealt with and we close the special courts of the district, it would not be possible for me to say how many exactly are the persons we will have to be provided for in the camp Jail. It has to be kept as a clearing house as far as possible. I may also say that with regard to the persons who are transported, although we were extremely anxious not to send a single person to the Andamans at the present time, it is impossible to provide accommodation for them here. We have asked therefore the Government of India to allow the Andamans to be reopened for the transportees. It is our intention later on to take back these deportees if we can make the Bellary camp jail into a permanent one, so that it may serve as a permanent penal settlement; we can provide work in large scale manufacture of *cumbles* for which we want plant and machinery. It is with a view to minimize the expenditure as far as possible that we are investigating these matters; but these provisions here in the jail budget, are the least that are required."

MR. C. V. VENKATARAMANA AYYANGAR:—"Sir, I thank the hon. the Law Member for his information. I wish to know whether it is not found

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possible to send these persons on some emigration scheme to some other parts of the country."

The hon. Mr. K. SRINIVASA AYYANGAR :—" That also is being considered."

The motion was by leave withdrawn.

*Motion 458.*

3-30 p.m. Mr. A. RANGANATHA MUDALIYAR :—" Mr. President, I beg to make the following motion :—

458. *To reduce the allotment of Rs. 28,50,445 for jails and convict settlements by Rs. 100.*

"I want information on three points and only three points. The first is as regards the Mappilla prisoners. In answer to a question of mine the hon. the Law Member admitted that an unusually large number of prisoners in the Bellary jail were falling ill and the rate of mortality also was very high. Now there are over 2,000 prisoners scattered in other jails elsewhere. I would like to know whether the prisoners there are falling ill in the same way as prisoners in the Bellary jail, and whether the rate of mortality in those other jails is the same as that which obtains in Bellary. If it is not so, if the conditions in other jails are better and healthier, then I think I am entitled to ask why the Government still persist in sending prisoners to Bellary where conditions are by no means good.

"The second thing to which I should like to invite the attention of the hon. the Law Member is as to how far effect has been given to the recommendations made by the last All-India Committee for jails, and how many of those recommendations have been given effect to. Last year when about this time reference was made to that, the hon. the Law Member said that the report was just then in his hands, and that it was too early for him to have gone into the matter deeply and to make up his mind as to how or which of those recommendations were going to be given effect to. Now it is more than a year and I expect, Sir, he is in a better position to comply with my request.

"Thirdly, I wanted information last time on what terms the Indian Medical Service officers were recruited. We find from the budget that a number of Indian Medical Service officers are given certain allowances for being in medical charge of certain jails. I want to know whether these officers are or are not whole-time servants of the Government. If they are whole-time servants, why should they be paid for any work that they are asked to do in connexion with the Government jails? Last year the hon. the Law Member promised to look into the question and I would like to know, Sir, what he has got to say now at the end of the year."

The hon. Mr. K. SRINIVASA AYYANGAR :—" Mr. President, the circumstance under which we had to make provision in Bellary for the reception of a very large number of Mappilla prisoners is well known. Even the Madras Government are unable to create jails with strong walls on all sides in two months or three months and they do not grow like Jonah's gourd in the Madras soil. I do not know whether my friend has any conception of what it costs to have really a well-organized central jail. In most of them, the walls alone cost something like a lakh of rupees. We have organized a camp central jail in Bellary which is quite handy as a camp jail and I am



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glad to say that the Superintendent in charge has done all that could possibly be done to make the place quite safe and healthy with the time at his disposal and the materials at hand. My friend asked what became of the prisoners in the other jails. As I have told him just now, all the jails are very much congested and if by any chance there had been an outbreak of any epidemic, the situation in those jails would have been very very serious indeed. We have to relieve congestion in those jails as soon as possible. As I have already mentioned, there was very little room in the other jails for taking in more prisoners than the normal, and we had to increase the number in almost every jail far beyond the numbers which those jails were intended to take. Then, Sir, so far as the camp jail at Bellary is concerned, there was at one time a large number of sick patients who were probably suffering from epidemic diseases. In consequence of that the Government sent in the Surgeon-General and the Inspector-General of Prisons to make a careful enquiry into that matter and on their advice we have removed a very large number of these sick patients into substantial buildings, into barracks. Now we want to remove all the prisoners now in the camp jail into these barracks before the hot season commences in Bellary, for there is no shade in the camp jail and there are not enough of huts. The immediate removal into barracks has relieved the sickness to a large extent. We have, in consequence of that sickness, been sending in a very much larger number of medical officers than is usual in a central organized jail. We have sent in ward boys for the purpose of nursing the sick persons in those barracks. We have sent an assistant surgeon with a travelling laboratory from the Guindy Institute for the purpose of making investigations on the spot. The result of our activities is there has been a considerable reduction in the number of sick patients and I am told that the matter is now well in hand; and we may congratulate ourselves on the vigorous steps taken to prevent sickness in the camp jail. That is what I have got to say, Sir, with regard to the Mappilla prisoners in the camp jail at Bellary. My friend Mr. Ranganatha Mudaliyar, I believe, is a non-official visitor to that jail. He is at liberty to go and see and satisfy himself that everything that can possibly be done by us has been done. I am not sure however that I will not have to come to the House for a supplementary grant for extra expenditure which has been incurred already during this year.

“The other question, which he has asked, is with regard to the Jails Committee's report. We have passed orders on many of their recommendations and, so far as this Government can give effect to the recommendations, they have given effect to them as far as possible and almost every order has been placed on the Editors' table. I do not recollect the contents of all those orders now; but, if my friend wants, he may have them. With regard to portions of the Jails Committees' recommendations which require the sanction of the Government of India, we are awaiting their orders. Some of the recommendations will require consideration and those will be dealt with by the India Government as an all-India question. In short, the Local Government have passed orders on all the recommendations of the Jails Committee so far as it was in their power to give effect to them and so far as they thought it was desirable to do so. With regard to the recommendations made by the Committee which come under the scope of the authority of the Government of India, we are awaiting orders. To the extent to which we have already received their orders, those orders again have been placed on

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the Editors' table. That is the position, Sir, as regards the Jails Committee's recommendations.

"As regards the allowance paid to I.M.S. officers or other officers—it is not merely the I.M.S. officers who get the allowances—it is for their being in medical charge. There is a large jail population and so far as I understand it, the pay of the I.M.S. or other civil officers is for the purpose of doing their normal work. When I accept they are full-time officers, it does not mean that they have pledged all the 24 hours of the day to the Government. Seeing that it is very hard work and that the work is more than normal, i.e., more than normal in the sense that it is done by only a certain number of these officers and not by all—the pay being fixed for the whole cadre for the normal duties—when they do abnormal duties, this charge allowance for being in medical charge is given. In some instances, as in the camp jail at Bellary, we have an independent medical officer in charge with a large number of subordinates under him. That is because the camp jail now contains about 4,500 prisoners, while the highest population in a central jail is supposed to be 1,500. That is the reason, Sir, for giving this small allowance, a medical charge allowance, which is given only in cases where the Superintendent is not himself a medical man."

MR. A. RANGANATHA MUDALIYAR:—"I am glad, Sir, to hear what has been done for the Mappilla prisoners. I may tell the hon. the Law Member that I am not a non-official visitor of the Bellary jails and so I cannot say anything from first-hand knowledge. As regards the last point, I do not quite understand the principle underlying the grant of this allowance. The hon. the Law Member seemed to imply that inasmuch as his work in certain places is, because of his being in charge of jails, somewhat heavier than in other places, some compensation was to be given to such an officer. If that principle is adopted, I am afraid that it has to be extended not merely to the medical officers, but to officers in many other departments as well. I think it is a matter within the common knowledge of members of this House that district charges also vary as regards the quantity of work. There are some districts which are very light, while there are others which are very heavy. If we have to pay these people by reference to the quantity of work turned out, then I am afraid, Sir, we shall be going in for a very heavy bill indeed. But one thing is clear from what the hon. the Law Member said that it is within the discretion of Government to give or withhold these allowances and that by virtue of their contract they are not entitled to claim these allowances as a matter of right."

The hon. the PRESIDENT:—"What are the allowances that the hon. Member is referring to?"

MR. A. RANGANATHA MUDALIYAR:—"Charge allowances, Sir."

The hon. Mr. K. SRINIVASA AYYANGAR:—"Some of them are votable and some of them are non-votable."

The hon. the PRESIDENT:—"All that I meant to say was that the hon. Member could deal with those allowances which are not in italics, but not with those which are."



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Mr. A. RANGANATHA MUDALIYAR :—" I have nothing further to say, Sir. I only wanted to draw the hon. Law Member's attention just as I did last year and I hope the matters will be looked into. I do not press this motion."

The motion was by leave withdrawn.

*Motion 459.*

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Sir, I beg to make the following motion :—

459. *To reduce the allotment of Rs. 35,86,445 for jails and convict settlements by Rs. 100.*

"Sir, in answer to the motion of my hon. Friend Mr. Venkataramana Ayyangar, the hon. the Law Member stated that the Government have in contemplation a new policy of letting out Mappilla prisoners on certain conditions."

The hon. Mr. K. SRINIVASA AYYANGAR :—"What I was saying was we are likely to let out a certain number of these Mappilla prisoners who have been already convicted on conditions. We are selecting them and we are going to instruct our prosecuting officers to ask for a fine in cases where such a punishment is suitable, and that is in ordinary cases."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Well, Sir, I do not know why my hon. Friend is objecting to my calling that a new policy. If he has any objection I do not wish to offend the Government by calling any Government policy new. Sir, I understood the hon. the Law Member to admit the inconvenience they are put to; and I understood also from his general remark about the situation in Malabar that a new policy of conciliation and a new policy of humane treatment towards persons who have been misguided—"

The hon. Mr. K. SRINIVASA AYYANGAR :—"So far as I understand, Sir, it has always been the policy of this Government to give humane treatment to all."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I am not discussing the general humanity of Government. I am considering what the policy might be in the present circumstances. Looking at the changes that have been effected in Malabar, I urge, even if the hon. the Home Member desires to disown the policy, that the releasing of persons whose release is not at all dangerous to public peace is a policy which the hon. the Law Member, the Home Member and the whole of the collective Government would do well to adopt. Having said that, Sir, I wish to come to the particular point which I wish to urge in making this motion. During the last six months it is not only the Mappillas that have filled our jails but numbers of those misguided persons who in advocating the non-co-operation movement and the liquor campaign have got into jail. Many of them are very young and the hon. the Law Member and the members of Government will realise that conditions under which notices under section 108 have been issued to many of these persons at the instance of the police are such that the issuing of a notice is tantamount to conviction. Therefore, Sir, if in the present circumstances, more especially in the present circumstances of the finance of the province and in the present circumstances necessitated by the unforeseen improvement in the political circumstances, if the Government of Madras

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have no new policy I can only express my surprise. Of course my surprise is not going to bring about a new policy and that is why I am trying to persuade the hon. Member who is responsible to pause and adopt a new policy. It is only last night, Sir, that I read in the papers that a notice was being issued to a certain lady and that she had been arrested. I am perfectly certain that her conviction is a foregone conclusion."

The hon. Sir LIONEL DAVIDSON:—"May I ask him to say, Sir, whether these somewhat remote issues are relevant to the matter before the House? There is another minor point of order, which is worth raising and about which I have been feeling a little doubt, as to whether, when a motion for the reduction by a nominal sum of a particular grant is moved by one hon. Member in regard to one or two specific points, it is open to other hon. Members who speak on that motion to request information on other points."

The hon. the PRESIDENT:—"I do not think he is speaking on any motion except his own."

The hon. Sir LIONEL DAVIDSON:—"I am sorry I understood him as speaking on other's motion. Nevertheless may I request for the guidance of the House ruling from you on that point? Of course, it does not arise here."

The hon. the PRESIDENT:—"When several hon. Members have tabled separate motions, not exactly in the same terms but all suggesting nominal reductions and all for the purpose of obtaining information, the House can take the motions separately, so that each hon. Member may put his point and obtain information. In regard to the other point raised I understand the hon. Member's view to be that by the adoption of what he calls the new policy of letting off the people who are in jail he will be able to reduce the jail population. He has thus got a proposal for reducing the jail population. (Laughter.) It is relevant."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"I am merely suggesting, Sir, that the hon. Member should adopt a similar policy in regard to those who are now in jail, more especially those immature young men whose antecedents are those of school boys and whose further detention in jail would certainly lead to their moral contamination. I appeal to hon. Members in charge of Government to take a humane view in the case of political prisoners, always excepting those who have been actually convicted of violence or disorderly behaviour. The general political situation has improved and I submit that there is absolutely no object in keeping these prisoners in jail except to embarrass my hon. friend Sir Charles Todhunter. He is the only person who will be embarrassed by the present policy. I do not think that peace and order will in any way be jeopardised by adopting a policy of what I might call reasonable treatment towards these prisoners. Therefore, Sir, I suggest that this question should be taken up seriously and that the Government should take up the case of those prisoners who are now in jail. Not only that, I also trust that suitable instructions such as those that are proposed to be issued in the case of the Mappilla prisoners will also be issued to the district magistrates so that there may be no more convictions. Hon. Members will see that notwithstanding the change in the situation, more especially in the northern districts, these prosecutions are still going on. Persons are being prosecuted under section 108 and I trust that the matter will be considered in a bared spirit and that the Government, instead of



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administering the cane will now proceed to distribute the jam. I have only one other matter for consideration. Sir William Vincent made a statement in the Legislative Assembly in regard to the treatment of political prisoners. That statement I noticed only in the papers. I tried to get the authoritative statement in the proceedings of the Assembly but I have not been able to trace it. I do not think it has been reported as yet. I presume that that statement has been communicated to the local Governments. Sir William Vincent stated that it is their policy that all those who are now regarded as political prisoners should be separated from the rest of the jail population sentenced to the same penalty. I do not wish to dilate on that matter. So in addition to these two matters I also trust that whoever may be detained will not be treated as ordinary criminals who have been convicted of offences properly so called, offences against the morals or against the State, but that under the peculiar circumstances stated by the Government of India they will receive special treatment. I earnestly ask the hon. the Home Member and the hon. the Law Member to consider whether by adopting this policy they will not also be bettering the financial position of this province. I am perfectly certain that such a policy might be adopted, without any detriment to peace and order."

Sriman BISWANATH DAS Mahasayo :—"Sir, the hon. the Law Member was kind enough just now to tell us that he is according very humane treatment. I am sorry to say, Sir, that the treatment accorded to prisoners in jails is not very humane. It is only a few days back that I and the hon. Member for Ganjam Mr. Rath had to represent to him the sad case of a hunger strike that is going on in the Berhampur jail. This is due to the fact that the political prisoners were not given sufficient quantities of salt."

The hon. Sir LIONEL DAVIDSON :—"May I ask if we can allow the discussion which is degenerating now into a general statement of political prisoners still in jail? Increase of diet means increase of expenditure."

The hon. the PRESIDENT :—"I understand that Mr. Das's point of view is that he is dissatisfied with the treatment accorded in this jail."

Sriman BISWANATH DAS Mahasayo :—"Most dissatisfied."

The hon. the PRESIDENT :—"So he wants to express that sense of dissatisfaction by cutting down Rs. 100 from this allotment."

The hon. Sir LIONEL DAVIDSON :—"I quite see the point. But in the light of the ruling that you gave just now the hon. Member's point is out of order. Mr. Ramachandra Rao wanted the reduction on an entirely different point of view. Therefore, according to your ruling, Mr. Das is not entitled to raise that point now."

The hon. the PRESIDENT :—"Mr. Ramachandra Rao shows dissatisfaction in one way and Mr. Das shows his dissatisfaction in another way. Mr. Ramachandra Rao's dissatisfaction may end in reducing the expenditure and Mr. Das' dissatisfaction may end in an enhancement of it. Both of them can put forward their grievances only in one way, viz., by proposing to reduce the expenditure, because no non-official member is permitted to propose an increase of expenditure. It may look a crude procedure, but it is right and it can't be helped."

The hon. Sir LIONEL DAVIDSON :—"My difficulty is that I have been trying to apply to this particular case the principle which you just laid down

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a few minutes ago. I understood that your ruling was that if two different grounds of dissatisfaction were taken, they should form the subject of two different motions. Mr. Das should have tabled a motion for the reduction of the grant by Rs. 100 to express his dissatisfaction at the treatment accorded to political prisoners. Mr. Ramachandra Rao's dissatisfaction is based on the ground that the prisoners should be let out of the jail."

The hon. the PRESIDENT :—" I must say that it would have been more convenient if they had tabled separate motions. But it is perfectly open to Mr. Das to support the hon. Member's motion for reducing the allotment on a different set of grounds. He proposes to vote for the motion though he may not agree with all the reasons given by the mover for that motion "

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I mentioned specially the treatment of political offenders and the statement made by Sir William Vincent."

Sriman BISWANATH DAS Mahasayo :—" While thanking you, Sir, for the wide margin that you allowed me, I should also say that a good deal of expenditure would be saved if there were no hunger strikes in jails, as you would save a good deal of correspondence, a good deal of telegrams, a good deal of work of the Publicity Bureau and sometimes Press communiqués also. In that way there would be a lot of saving.

" Sir, I think there has been a hunger strike in the Berhampur jail from 14th March. I do not know whether the hunger strike is yet over. Sir, I am very sorry to hear from my friend Mr. Rath that the hunger strike has not yet subsided. The treatment accorded to these prisoners in jails in various other ways and especially by refusing to give them their ordinary necessities of life can in no way be called a humane treatment, and the result is that many of these prisoners have lost in weight, from 8 to 5 lb. each. Well, Sir, the treatment accorded to such prisoners in other provinces, for instance, in Behar and Orissa and Bengal, is certainly humane—far better than that accorded to the prisoners in the Madras presidency. Again, the jail rules do not allow even their relatives to go and have interviews with these prisoners. Sometimes various sorts of rumours are spread and a good deal of anxiety can be saved by relaxing these jail rules and admitting public men or such other persons who are interested in the well-being of these persons to go into the jails and interview them."

Diwan Bahadur M. KRISHNAN NAYAR :—" Sir, I rise to say one or two words on this motion, as my friend Mr. Ramachandra Rao and my friend the hon. the Law Member referred to the release of Mappilla prisoners. Sir, I myself and my friends coming from Malabar have no objection whatever to the humane treatment of prisoners, including the Mappilla prisoners. But we the people in Malabar seriously object to the releasing of the Mappilla prisoners who have been sent to jail on conviction. My friend, the hon. the Law Member, though he represents the Government, and my friend Mr. Ramachandra Rao spoke in an airy and light-hearted manner about the releasing of these Mappilla prisoners who have been convicted by magistrates and sent to jails. As a matter of fact, I may mention to this House that a memorial, very largely and influentially signed, has been sent to the Government of India and probably to this Government also. This influentially and largely signed memorial refers to the danger of releasing Mappillas who have taken part in this serious rebellion and who have been convicted by



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summary courts to two years' imprisonment. It is for the Government to pass such orders as they think fit on this memorial. But I want to say this to the House, that the period of two years will soon elapse. It was only in the later stages that special tribunals with powers to inflict longer terms of imprisonment were appointed. In the earlier stages of this rebellion, summary courts and magistrates tried the cases and they had power to award imprisonment only for a period of two years, and persons who were guilty of very serious crimes have been sentenced only to two years' imprisonment, and I do not know whether my friends realise the consequences of releasing these prisoners, whose number is very large, before the period of their imprisonment has run out. In fact, my friend opposite knows and ought to know that the rebellion has not yet been completely suppressed. I may tell him from my own knowledge that if before the rebellion is completely suppressed these prisoners, who have been convicted to two years' imprisonment and more are released even on conditions, the consequences will be very serious. We are now discussing only the financial aspect of the question. Apart from all other considerations, I may warn my friend that the financial condition will be extremely serious, for the rebellion is likely to be prolonged if these prisoners are released, with the result that the army now withdrawn from Malabar will have to be sent again and this will involve extra cost. I am speaking not only on my behalf but also on behalf of my friend Mr. Tampan. The feeling in Malabar is very strong, and if these prisoners are released, the consequence both to the Government and to the people will be extremely serious. I am very anxious not to be misunderstood. We are not at all against humane treatment or considerations of humanity being extended to these Mappilla prisoners. As a matter of fact, there was a strong feeling in a section of the Malabar public with reference to the train tragedy. I am stating this only to show that the people in Malabar are not less humane than my friend here Mr. Ramachandra Rao or my friend the there hon. Mr. Srinivasa Ayyangar. My friend Mr. Srinivasa Ayyangar says that he will be going to Malabar soon and that after ascertaining the conditions there he will release the prisoners. I give him a serious warning of the consequence that will follow if he does it. As I began, I shall end. We are not against humane treatment of prisoners, but we are against the release of these prisoners convicted by courts of law before their terms of imprisonment are over."

MR. K. PRABHAKARAN TAMPAN:—"Sir, I want to say a few words in this connexion. It is said that these Mappilla prisoners are political prisoners. They are not political prisoners. Every one knows they were convicted for looting, robbery, murder, committing rapes and all such sorts of offences, and do not deserve the humane treatment which Mr. Ramachandra Rao proposes to accord to political prisoners. It is very easy to sit here and speak light heartedly that they may be released from the jails and so on. If you are going to release them, pray send them to the district from which Mr. Ramachandra Rao comes or to the district from which the hon. the Law Member comes and not to Malabar for some time to come at least."

RAO BAHADUR A. S. KRISHNA RAO PANTULU:—"Sir, I do not wish to say anything on the question of Mappilla prisoners after the statement made by my friends from Malabar. The question is no doubt one beset with complications; but still we cannot forget that even the worst offender is entitled to humane treatment to the extent to which it is possible. The other point

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which is of far greater importance is as to the manner in which it has become necessary to increase the jail population and consequently to increase the jail expenditure by more than 9 lakhs of rupees over the revised estimate. The matter which must concern every one is the manner in which large numbers of persons have been sent to the jail with the formality of a trial and with the full knowledge that the persons concerned are not going to defend themselves. It is unfortunate that the system of separation of the executive from the judicial functions is not in vogue in our country, and if it had been, the result, I venture to say, would have been different. The fact that an accused does not make a defence or that he merely files a statement does not relieve the magistracy of the responsibility of weighing evidence and sifting it with such care and circumspection, as if the case had been defended and represented by a vakil."

The hon. Sir LIONEL DAVIDSON :—"Are we again to extend the scope of this debate to the methods adopted by the magistracy in dealing with the accused?"

The hon. the PRESIDENT :—"I was about to say something about that. We have been having a wide discussion, though we are concerned only with the jail administration. I may at once tell the hon. Member that the question is how people are to be treated in jail and whether they are to be let out or not. I trust the hon. Member will realise that. The circumstances under which the men are sent to the jail and how trials take place would be fit subjects for discussion if this were a vote on Criminal Administration. But this is a vote on Jails."

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"My next sentence would have cleared matters. My point is this: that if the magistracy had exercised its duty in spite of the fact that the accused did not defend themselves there would not have been so many convictions and there would not have been so many prisoners to be sent to the jails. That is the point to which I have been referring so far as the magistracy is concerned. Seeing that a large number of persons have gone to jails without any defence whatever, it is the duty of the Government to examine the cases independently and of their own accord and to have the advice of such non-official advisers whom they can trust and to set at liberty a large number of prisoners under the present condition of things. I know that similar motions were moved in other Councils and that the Government of those provinces took necessary steps in that direction. Though in this House a similar motion has not been made, we knowing the fate which a similar resolution on political offenders had in this House, yet it is still open to the Government even now to take lesson from other provinces, examine the convictions which have taken place during the last few months and see, if, in all reasonableness, many of the political prisoners cannot be set at liberty and whether congestion cannot be removed in jails. It is the supreme duty of the Government to do so and I believe they will do it."

"Again, my friend the hon. the Law Member has drawn attention to the fact that prisoners in jails are humanely treated. I think that instructions should be issued to all the magistrates of the districts to examine and see if it is necessary that persons should be sent to the jail under the present juncture and that distinctions made between those who can without any difficulty be set at liberty and those who cannot be so set at liberty."



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Mr. K. P. GOPALA MENON :—" Sir, if I take part in this discussion it is not because I had occasion to smell the Mappilla atmosphere but because I had an occasion to smell some of these trials that are going on in Calicut. Our esteemed friend the hon. the Law Member has told us that there are a number of cases which are pending now and the consequence of which is a number of persons, generally called undertrial prisoners are swarming the jails. I should certainly invite the attention of the hon. Members to the fact that with greater care and with some sort of investigation we ought to be able to say whether or not against some at least of these persons absolutely false charges have been trumped up. I am prepared to quote my authority for that. It was only last month—"

The hon. Sir LIONEL DAVIDSON :—" Is this in order, Sir ?"

The hon. the PRESIDENT :—" Let him proceed."

Mr. K. P. GOPALA MENON :—" False cases are trumped up against some of the persons and they are kept as undertrial prisoners for three or four months and then they are let off on the ground that no case has been made out against them. Thus several people are allowed to swarm the jails without any cases against them which could be avoided by better investigation."

The hon. Mr. K. SRINIVASA AYYANGAR :—" May I mention, Sir, that there are only very few cases of undertrial prisoners ?"

Mr. K. P. GOPALA MENON :—" From my experience in Malabar, I may say that there are at least three to four thousand prisoners who are undertrial prisoners for the last four or five months. I can give one instance. There was a certain respectable Hindu gentleman who was charged with waging war against the King and who was remanded for a period of some months. I had the honour of defending him ; a charge was framed against him and the best evidence for him was a precious document which was sent to the district magistrate and the same was filed in court. That document was nothing else than a report of the inspector of co-operative societies who was present in the place of occurrence on that day. The report of the inspector was in response to a proclamation issued by the district magistrate, stating that so and so was in his house the whole day and saw all the things. The learned judges of the special tribunal before whom the case was brought had no hesitation in throwing away that case on the ground that the whole thing was a concoction and that this report was sent two days after to the district magistrate. It was unworthy of the police to have trumped up such a case against a respectable gentleman. If only the truth had been found out, so many unfortunate people would not have been charged and they would not have been swarming the jails for three or four months as undertrial prisoners. I wish to support this motion for reduction more with a view to see that the authorities make proper investigation into matters brought to their notice. I am also prepared to give heaps of instances where the police mischief is responsible for respectable persons having been locked up in jails. "

The hon. Sir LIONEL DAVIDSON :—" Is police mischief relevant to a motion relating to jail administration ? It seems to me that it is too remote."

The hon. the PRESIDENT :—" No doubt the hon. Member's remarks would have been more relevant if the discussion had been on the Police. I take it that the hon. Member's point is that a large number of these people who are

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swarming the jails in Malabar are under-trial prisoners, who are there on account of reckless action on the part of the police. He says he is prepared to give specific instances to prove his contention."

The hon. Sir LIONEL DAVIDSON:—"I wish the hon. Member gives some of those heaps of instances from his personal knowledge. If he does so, I will undertake on behalf of the Government to cause an examination to be made of any case which *primâ facie* seems to call for action. I bitterly resent any general accusation."

Mr. K. P. GOPALA MENON:—"I have first-hand knowledge about all these things and I have also made very careful investigation. But I have absolutely no grievance against A, or B or C."

The hon. Sir LIONEL DAVIDSON:—"The hon. Member said he could give heaps of instances, Sir."

Mr. K. P. GOPALA MENON:—"I therefore submit, Sir, that this matter of swarming the jails with under-trial prisoners is one on which greater care should be bestowed and greater scrutiny exercised. If only the hon. Member calls for statistics of cases thrown out, he will find that a majority of the cases have all been thrown out as false or concocted ones. It is only by a vote on this motion that we can draw the attention of the hon. the Home Member to this aspect of the question. I only request the hon. the Law Member to be more merciful and humane in regard to these prisoners and I trust he will issue strict instructions to his subordinates to observe his orders to the very letter."

Mr. C. RAMALINGA REDDI:—"Sir, it is with great reluctance that I take part in this debate. The speeches of some of the hon. Members have much disturbed the atmosphere and it seems to me that it is time somebody undertook to pour oil on the troubled waters. The question resolves itself into three aspects: first a general one pertaining to jails, second with reference to the treatment of the Mappillas and third with reference to the treatment of the political prisoners. As regards the first case I heard the amazing statement of the hon. the Law Member that for a long time and even now there has been great congestion and that the rate of mortality is high in jails and he told us as his opinion that things have improved since. But this opinion of his has not been to my knowledge fortified by any comparative statistics. It is a well-known principle that if you are not in a position to keep a prisoner in the condition to which he is entitled under the sanitary codes of the country, then you have no right to keep him there simply because he is at fault, thereby exposing him to the danger of losing his life. Well, Sir, I do not wish to labour that point at greater length. Coming to the more contentious portion of the question, namely, the Mappilla prisoners, my hon. Friends from Malabar, doubtless speaking under the strain of terrible feeling, which it is not possible for us to share in full, have informed the House that it would be a dangerous thing if these people were released soon. One of my hon. Friends was even prepared to say that they should be treated in a humane manner. Another hon. friend wanted that they should be let loose in the locality or at the door of the person who had a good word to say on their behalf. I frankly ask my hon. Friends of Malabar whether they think they can solve the problem of the Mappilla in Malabar by harbouring bitter feelings such as these. I do not for one moment mean to sit in judgment on them; I have no right to do it. They are the best judges



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and I beg of them to consider for one moment whether in the present state of terrible feeling they can be the best judges in the matter. If my hon. Friend Mr. Prabhakaran Tampam is to be taken at his word, which I do not suggest anybody should do and which I do not think my hon. Friend himself will ask us to do, the only solution would be either extermination of those people or externment from Malabar."

Mr. K. PRABHAKARAN TAMPAN :—" May I offer one word of explanation, Sir? The other day I stated in connexion with the discussion on Mr. Krishna Rao's resolution that we land-owners are prepared to forgive and forget. We know they are a community essential to Malabar and we have all along lived with their help."

Mr. C. RAMALINGA REDDI :—" The Mappillas have to be there anyhow. The question is whether they have to be put out of the country or out of the world altogether. Since both these alternatives are impossible, there is nothing for us to do except to feel for them and try to alleviate their condition. The suggestion therefore is that not merely humane treatment but good treatment should be accorded to those who have not been guilty of taking part in violence of any kind. But in the case of those who, out of fanaticism or under the influence of agitators, have been led astray, we must as time and prudence permit give them a chance to retrieve their characters and lives and make them good citizens of Malabar.

" Then I come to the political question. At the last debate which took place in this House on that subject, I believe an assurance was given by the hon. the Law Member that the whole matter was under the consideration of the Government."

The hon. Mr. K. SRINIVASA AYYANGAR :—" No, Sir; what I stated was that I was considering every individual case of hardship."

Mr. C. RAMALINGA REDDI :—" I see that the hon. the Law Member only promised to consider individual cases of hardship on their merits or demerits. Whatever that may mean, I was going to say that the law in England is different from that in India as regards political offenders. It is the universal desire of everybody that, so far as these matters are concerned, Indians should be treated just as people in civilized Europe are treated. I believe efforts were made or are being made to better their condition. But I do not personally care if individuals are treated better or worse than before. I would like to see that the question is lifted up to a higher plane and the whole matter is decided on the highest standards of civilization and humanity adopted in any century. The whole country is eager for a pronouncement from the Government regarding their policy in this matter. Before I conclude I would request the Government to see that in these matters they act up to the very highest standards of civilization and humanity and not to the lowest."

Dr. P. SUBBARAYAN :—" Sir, I have tabled a motion similar to the one which is now being discussed. What my hon. Friend Mr. Ramachandra Rao in his motion wants is that our political prisoners should be treated on the highest standards of humanity and not as criminals as they are being treated now. Of course we may have difference of opinion among ourselves on special considerations; but there it is that these people are suffering imprisonment which they think they are undergoing in the interests of the country but which others think in the interests of the maintenance of law and order.

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[Mr. P. Subbarayan]

What we say is that the imprisonment should be human and should not be utilized as a matter for revenge. I think a good deal has already been said about the Mappilla prisoners. I hope our friends from Malabar will realize that the Mappillas who form a large part of the population of Malabar have so long been neglected by their Hindu brethren and therefore this trouble has arisen. If only the Hindus had cared to treat the Mappillas as human beings and not as helots on their lands as most of the landholders in Malabar have treated them, I think we might have had a different tale to tell. So much for Malabar. I hope our hon. Friends from Malabar will bear this in mind and will treat the Mappillas as human beings and not as serfs on their lands. I hope the hon. the Law Member will take into consideration the feeling that exists not only in this House but also in the country that these political prisoners ought to be treated not as criminals as they are being treated now but as political offenders."

The hon. Sir LIONEL DAVIDSON :—"Sir, you have more than once laid down that as a matter of courtesy financial reductions of this description should be preceded by some indication to the Government Member in charge of the nature of the points which it is proposed to raise. In this instance I am not aware of any such information having been given to the hon. the Law Member."

The hon. Mr. K. SRINIVASA AYYANGAR :—"No, Sir, I have had no information with regard to any of these points."

The hon. Sir LIONEL DAVIDSON :—"No such information was given to me either and the least I expected was to find the debate ranging over such issues as the problem of bringing the Mappilla and the Hindu in Malabar into peaceful relations, the policy of the Government in regard to the repression of seditious agitation and the conduct of the police. I never thought that any of these points were likely to be raised on the grant for jail administration and I have had no intimation that it was the intention to do so. To that extent, Sir, I am at a disadvantage in not being able to give my considered opinion but I do hold clear views on the subject and am quite ready to give them to the Council. In the first place I repudiate altogether the suggestion that the 'political' prisoners as they are called are receiving treatment based on grounds of revenge or anything of the sort. No question of revenge, I am sure, enters into the idea of my hon. Colleague or his subordinates in charge of the jails in this Presidency. Persons are committed to jail under sentences of rigorous or simple imprisonment and it is no part of the duty of the jail officials to discriminate between different classes persons who are committed to their care to undergo such terms of imprisonment. Indeed they would be guilty of dereliction of duty if, in any respect, they departed from the general rules which are laid down in Jail Code for the treatment of persons sentenced respectively to simple and rigorous imprisonment. That they should deal with persons of all classes in a humane and sympathetic spirit is a recognized principle, but the principle of discriminating in favour of the so-called 'political' prisoner is not recognized either by the law or by the subsidiary provisions in the Jail Code. The question whether some such discrimination should be indicated as a general instruction to all provinces of India is, I believe, under examination in connexion with the report of the Jail Committee. This was referred to in debate on the occasion when a resolution on the subject was talked out in this House some

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months ago. In the meantime, Sir, I cannot conceive any sufficient cause for differential treatment in favour of political prisoners; while I use the term 'political prisoner' because it has come into common parlance, I should like to say that the gentlemen who are commonly described by that appellation fall under different classes. Dr. Subbarayan has told us that these men do what they feel to be in the best interests of the country. Does he think that the paid agitator who is touring round in the Northern Circars or travelling from Guntūr to the Ceded Districts and from Aligarh down to Madras, does he think that that class of agitator, uttering any foul lies that occur to him without respect to truth, without respect to decency, does he think that the people of that class who do it for a pay of Rs. 20, Rs. 30 or Rs. 40—we know that many of these men are paid such sums and we know the stuff that they pour out before their poor deluded audiences, foul and seditious lies—does he seriously think that that class of agitator is doing what he thinks is in the best interests of the country? I appeal to this House to pronounce a judgment and I do not believe that Dr. Subbarayan himself really looks on such paid hirelings as on the same footing with the conscientious agitator who is only doing what he honestly thinks right. I recognize perfectly well that there are two types of agitators. Let me give a concrete instance; but, as my classification of concrete cases is merely based on the information before me, do not take it is of necessity accurate. I should be inclined to say that our latest guest in jail, Mr. Konda Venkatappayya, probably comes under the conscientious agitator type. If so it is right and proper that he should be sentenced to simple imprisonment. As to the other class—well, I do not want to give any specific instance of that type, but it comes before me almost every day and is really at the heart of the trouble in every district in this Presidency. Such men stir up trouble wherever they go, and it is an unfortunate fact that only too often the trouble is stirred up in districts hitherto comparatively peaceful. It is often due to the inroad of people coming from Guntur. In the case of Muhammadan tracts I know of trouble so caused by the advent of seditious agitators from Aligarh. I will not develop that proposition any further. But it is a fact emphasized again and again by district officers in their reports to the Government. They say 'We should have been all right, if it had not been for the agitators coming from outside.' Some of them come from Cuttack in Orissa; a very large number come from Guntūr.

"Mr. Ramachandra Rao has said that now that things are peaceful we might hold out the olive branch, throw open the doors of our prisons and adopt a new policy. Is it not a little early to change? Is it wise to embark on a new policy quite so rapidly? I think not. I think that the majority of the House will agree with me when I say that any rapid change in the policy is gravely to be deprecated. I think it is a matter which the general public regard as matter for congratulation that the troubles in Guntūr district have been dealt with firmly at long last. The action taken in Guntūr has reflected favourably on other parts of the Presidency, and I think that it would be a very very grave mistake suddenly to release these gentlemen who are called political prisoners and to let it be known that the preaching of sedition is regarded with a lenient eye. A recrudescence of trouble would, I fear, be the inevitable result.

"It is suggested again that the doors of our jails should be thrown open on the mere expression of penitence by the prisoner whom it is proposed

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to release. In cases where a frank apology is offered the circumstances are now carefully examined. But it is not always possible to accept an apology which, on the face of it, is frank. We view expressions of that description with great consideration and we do our best to let the delinquent out if he really and honestly shows signs of penitence. There is, however, a class of paid agitators whom we watch for weeks and weeks and months and months, knowing they are doing grave mischief wherever they go seeing the consequences that follow on their tours in different parts of the country, without being able to catch them out. When at last the circumstances allow us to put such men in jail, we do so if they are of sufficient importance; the moment they are caught, the moment the sentence is pronounced, and sometimes even before the sentence is pronounced, such men sometimes grovel and ask to be released, promising to give an undertaking that they will never break out into seditious speeches again."

Sriman SASI BHUSHANA RATH Mahasayo :—"Are there many instances like that?"

The hon. Sir LIONEL DAVIDSON :—"There have been several such instances. One or two have been mentioned in the communiqués published by the Government. I can recall one particular case at this moment—"

Dr. P. SUBBARAYAN :—"The hon. the Home Member is talking about receipt of pay. I should like to ask him whether the receipt of pay as such degrades a man? A man may not be able to do it by himself. He may be conscientiously doing what he thinks right and yet he may be receiving a pay."

The hon. Sir LIONEL DAVIDSON :—"I wish I had in my hands the last tender of apology which reached me. It was from a wretched man who had been employed as a book-binder in the Straits Settlements. He came over to this Presidency, I think, in July or August last. The Congress Committee of the district caught hold of him and hired him for a pittance to go round preaching sedition. He said: 'I took this pay because I was in poverty; I had five souls dependent upon me; I bitterly regret that I went about saying such things; I promise I will not do so any more.' I think a man who takes payment for work of that sort is degraded and dishonoured."

Dr. P. SUBBARAYAN :—"But there are other people who receive pay and conscientiously believe that they are doing the right thing by the country."

The hon. Sir LIONEL DAVIDSON :—"It is quite likely there are such persons. I know of several pleaders who have suspended practice and receive a monthly remuneration of Rs. 150 for Congress work."

Sriman SASI BHUSHANA RATH Mahasayo :—"There are some who receive none."

The hon. Sir LIONEL DAVIDSON :—"If they act from conscientious motives, I could honour and respect those who receive no pay. But those who receive remuneration for their patriotism do not gain my respect. There are, as I have said, several such. But the type I am speaking of is the man who receives pay, not for telling what he honestly believes, but for going about the country publishing foul lies. There are plenty of such people. If Dr. Subbarayan had seen anything like as much as I have of the speech-making going on in the districts, he would understand that I am



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not exaggerating one atom. It is that type of men with whom the Government want to deal, and deal effectively. I think we are now beginning to get them well in hand, and I should regret it very much if by any sudden change in policy the idea became current that it is possible to propagate sedition broadcast in the districts without running any risks.

“Perhaps, if time permits, Sir, I may refer just for a moment to the Mappilla problem. I think that our friends from Malabar are perhaps a little unnecessarily exercised over the hon. Mr. Srinivasa Ayyangar’s speech on the subject. I should like to emphasize with all the power at my disposal that the exceptional treatment proposed in the case of certain classes of Mappillas will be applied in the most careful way, and will be confined to prisoners who are specially selected as deserving of such concession. Our idea is that no person should benefit in that way, who is not able to satisfy responsible officers and magistrates who know his past life and all about him. The kind of testimony we have in view is such as could be given, for instance, by Mr. Hitchcock. We are not going to release people who cannot satisfy local officers of real experience. The idea is that if a man has not been concerned in very serious crime and was a respectable person in normal times, but carried away by excitement in the first rush of the rebellion,—there are many such ordinarily respectable Mappillas—the idea is that a person of that description should be allowed under conditions to return to his home to work out by instalments a heavy fine. It is possible to commute sentences of imprisonment to fines, and we are asking the Malabar authorities to make a very careful selection from men now in jail and to send up to Government cases in which they think such commutation is possible. The procedure of the Government will then be to commute the sentence to a fine subject to the conditions that the fine must be paid up in regular instalments and the payer of the fine must conduct himself properly to the satisfaction of the local authorities. If at any time the fine is not duly paid or the conduct of the delinquent is far from satisfactory, this conditional commutation would lapse and he would go back to jail. A similar procedure is contemplated in the case of persons now under trial. We have already authorized the special tribunals in Malabar in cases where they are satisfied that this would not be inexpedient, to suspend the sentences pending conditional release. Such release has finally to be sanctioned by Government. I hope, Sir, that what I have said will re-assure residents in Malabar that there is no idea of returning dangerous Mappillas broadcast.”

The hon. Mr. K. SRINIVASA AYYANGAR :—“I did not say that we have  
4-45 p.m. put them in insanitary places or in places unfit to live in. I did not say that the prisoners—we were getting them in a rush—were all put in places unsuitable for living. We had, Sir, a camp jail at Bellary in which there were the Turkish prisoners of war. It was quite as good a place as any other. But what I did say was—and I do emphasize it—that we could not have a completely organized Central Jail with all the necessary conveniences developed during the course of the last 50 years. I may say for the information of the House that the jails in the Madras Presidency were considered of all the jails in India to be the most healthy and once held the first place in that respect. Subsequently we have lost that reputation. We are trying to achieve the same position as far as we can.

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"But the real difficulty in the case of these Mappilla prisoners is that they came in a very fatigued condition. There were a very much larger number of elderly people than in the case of ordinary convicts. Our prisons were constructed to hold about 10,000 prisoners. We could not of course foresee that we would want extra jails with all the necessary equipments for another 10,000 people and we could not keep an extra set for emergencies. We did our very best.

"With regard to the transport of these prisoners to Bellary, if they had been left in the rebellious area free it would have prolonged the misery of the Hindu inhabitants or if they had been packed in the sub-jails there, these Mappilla prisoners would have died out. Therefore I say we did our very best. We have been improving the arrangements ever since.

"Something was said in regard to the hunger strike in the Berhampur jail. Two of my friends handed to me a letter day before yesterday making certain allegations. I have sent it to the Inspector-General of Prisons for the purpose of inquiry. I have said, and I do repeat it, that I am inquiring into every case of grievance, I am inquiring into every case brought to my notice, either by representation in reputable newspapers or from responsible persons who undertook the responsibility of fathering those allegations."

Sriman BISWANATH DAS Mahasayo :—"Am I to understand that speedy inquiries will be conducted because any delay will cause death?"

The hon. Mr. K. SRINIVASA AYYANGAR :—"There will be no causing of death because the instructions are they shall not be allowed to die. I did deal only with individual cases subject to the rules. If there is to be a change in the rules it must be by Government and not by any individual member."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"Sir, I think the object of this motion has been stated in more than one form. It is to elicit from all parts of the House an expression of opinion that a more humane treatment for these prisoners is necessary and desirable, and that in the present circumstances, seeing the change in the political situation, a new policy is desirable. My hon. Friend Sir Lionel Davidson said that no notice or intention to bring up this matter has been given to Government. I admit, Sir, that it is so. But I know the readiness of my hon. Friend to meet any emergency arising out of any situation in this House. But if hon. Members require 6 months' or 3 months' or 3 days' notice, well, I think that it is not exactly my idea of what a collective Government should do. I know their difficulty. My intention is that the hon. the Home Member will summon the collective Cabinet and I hope the matter will be fully discussed and will continue to be discussed till the emergency has disappeared. I submit, Sir, that this is the correct procedure which we should establish. As to notifying the Government of our intention to bring up matters of this kind, we expect similar mutual acts of courtesy on their side. I do not wish to go into this matter at present. I had some grievances also against—I do not say my hon. Friend Sir Lionel Davidson,—but against the department."

The hon. Sir LIONEL DAVIDSON :—"I should like to know them."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—"I have some, but I do not wish to complicate the present situation by ventilating these grievances on the present occasion. Whenever we have anything new to



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bring up, the official mind does not take in these things very quickly. You have to saturate the mind of the official if you wish to have something new which is not in the routine. Therefore, I have taken this opportunity of saying that a new policy in the treatment of these prisoners is necessary. I trust that everything that has been said to-day will be duly considered by my hon. Friends on the Government Bench and that they will try to evolve a change in their policy, if not to-morrow, at least in a few days. But I do press very insistently on them that the situation does require a change in their policy and that they would be applauded if such a step was taken, and there would be absolutely no danger to peace and order.

"I do not wish to admit all that has been said to-day, nor do I agree as to the correctness of the classification which the hon. Sir Lionel Davidson has been pleased to make regarding conscientious objectors and paid agitators and other things. I may perhaps agree with him to a certain extent, but we disagree in many things. I submit that so long as we have a Government in this country, there should be also some kind of politics, and the Government in power will have to recognize that there may be politicians in the country and there may be political agitators with whom they may not see eye to eye, but that is all the more reason for taking the political agitators and political agitation not as being necessarily antagonistic to them. I trust this matter will receive the attention of Government and that necessary consideration will be given to it.

"My hon. Friend Mr. Srinivasa Ayyangar said that orders had been given that nobody should die in jails."

The hon. Mr. K. SRINIVASA AYYANGAR:—"As far as humanly possible, Sir."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU:—"Even as far as humanly possible, the Government may promulgate an order that nobody shall die; but whether it will be carried out is another question. It is typical of the mind of the Government to imagine that when they wish to do anything they have only to issue an order. All that I say is let them think about this matter, let them have some political imagination and resolve to meet the political situation by the exercise of their imagination and by relaxing the rules and regulations. In this new era of constitutional Government I think my hon. Friends cannot go on exactly as they have been doing hitherto by rules and regulations issued in the departments. They are here face to face with the representatives of the people to answer and satisfy the popular expression of the popular will. I trust that at least now my hon. Friend and the reserved portion of the Government will recognize that they must rise equal to the occasion and not depend upon rules and regulations. With these words, I beg to withdraw my motion."

The motion was by leave withdrawn.

*Motions 460 and 461.*

The following motions were not made:—

Rao Bahadur T. BALAJI RAO NAYUDU:—

460. To reduce the allotment of Rs. 35,86,445 for jails and convict settlements by Rs. 4,56,000.

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MR. B. MUNISWAMI NAYUDU :—

461. *To reduce the allotment of Rs. 35,86,445 for jails and convict settlements by Rs. 15,000.*

*Motion 462.*

Rai Bahadur T. M. NARASIMHACHARLU :—“ I beg to make the following motion :—

462. *To reduce the allotment of Rs. 35,86,445 for jails and convict settlements by 9 lakhs.*

“ My path is made more smooth and more easy by what has just passed during the discussion on the previous motion. I welcome the suggestion of the Government members that some of these prisoners are going to be released on commutation of fine and on other conditions that will certainly make the expenses of the jails much less than what it would be. I welcome also the suggestion that in future the Government would instruct the prosecution to ask for fines where they could be so asked. That also will reduce to a certain extent the amount which would otherwise be spent on diet and other necessities in the jail for the prisoners. I am neither a Mappilla nor a Malabari, and consequently I can take a detached view. I think, Sir, that the decision which the Government have come to is a sound one. It is such a conciliation and such a concession that will heal the sore hearts and will bring about speedy reconciliation between the Hindus and the Mappillas. As for the fear that the Mappillas should not be brought back to Malabar, but should be taken to Godavari and other places, I welcome them in my own district. My district is wide enough, and what with heat and what with malaria, they can live very comfortably in our district. So, I think if they are released, it will reduce the jail expenses. I think, they will do no harm to my district. Surely my district is very wide and only sparsely populated. Thirdly my submission is this : If the suggestion that I have already made elsewhere be accepted, namely, that in the case of the accused under trial, if proper investigation had been undertaken, and if proper committals had been made there would have been less under-trial prisoners and consequently there would be less expenditure. We find from the comparative statement given in the Government records that the convictions are always less than about 40 per cent and that being so a greater scrutiny and investigation in the charging of cases and also in the committals will bring us a saving. Fourthly, I submit, Sir, that the time has arrived when it should be seriously considered whether it would not be desirable that some prisoners, even after conviction—I do not mean to say that all prisoners but some prisoners—should be allowed to self-diet themselves. These should be allowed to have their own diet at their own expense in jail. This will also indirectly cause a large decrease in the expenses. Very often, prisoners in jail are given diets which do not suit them and to which they are not accustomed, and they are given food cooked in such a way that it is not at all suited to their constitution. Consequently sometimes hunger-strikes take place, sometimes they are reduced in weight by 8 or 9 pounds and so forth. Sometimes also they get sickness, which means an additional expenditure on the medical establishment and medicine charges. All these expenses could be saved by allowing certain classes of prisoners their own diet. But it may be contended that it is against the Jail Code. The Jail



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Code is a code which we ourselves have made, and as civilization advances and as we progress, it certainly behoves us to treat them in a more humane way than they are at present treated.

“It may be said, Sir, that if we allow them to have their own diet, they will lose all fears for the jail and that will in consequence, induce people to commit more crimes. I submit, Sir, that it will not be so. The very idea that a man's liberty is taken away and he is confined within a certain place is degrading in itself. It is the dishonour involved in the imprisonment more than the jail diet and other things that tells upon a man and makes him penitent, and prevents him from indulging in further crimes. It is the loss of liberty that tells upon him more than the diet itself, and consequently I submit very seriously and earnestly to the consideration of the House whether the time has not arrived for allowing prisoners to have their own diet. In that way a good deal of money could be saved not only in point of diet, but also in other expenses like medicine and other things. I therefore submit that if all these suggestions are adopted I think the extra 9 lakhs that has now been provided for in the budget which is more than what has been provided in the revised estimate, could very easily be saved. I move therefore for a reduction of Rs. 9 lakhs under this head.”

The hon. MR. K. SRINIVASA AYYANGAR:—“Mr. President, I thought my hon. Friend was perpetrating a joke upon the House by asking for a reduction of Rs. 9 lakhs. Nine lakhs is precisely the sum which is required for the diet of the Mappilla prisoners, for their clothing, and for their medical charges. I was wondering whether the idea of my friend was—because he has not omitted the sum required for the preservation of the camp jail or its superintendence—that these prisoners should be left in the jail, without diet, without clothing and without hospital charges. That would be a jail clearance with a vengeance. The other alternative is that every Mappilla prisoner, whether a murderer or any worse culprit, including those who may hereafter be convicted, should be let loose. If we do so, then we will have to let loose 12,000 of these prisoners to populate Cuddapah and there may be space there. My hon. Friend also gave us a hint as to how Cuddapah was going to treat these prisoners. I can conceive of only these two alternatives and the suggestions can only be taken as humorous. The suggestions that the hon. Member made with regard to the jail administration will be carefully considered. Some of these suggestions are not new, and some of them were made by the Jail Committee also, and we are earnestly trying to give effect to them. But I would draw the attention of the House that for the purpose of giving effect to these suggestions more money is required, not less. I think, Sir, it is a hopeless proposition, this reduction of nine lakhs of rupees, which is precisely what we want for the Mappilla prisoners.”

Rai Bahadur T. M. NARASIMHACHARLU:—“I am very much amused at the statement made by the hon. the Law Member that I was cutting a joke upon the Government. It is not my nature to have any jokes against anybody at all, and much less against the Government.”

The hon. the PRESIDENT:—“I am sure nobody has made any serious charge against the hon. Member; otherwise I would have risen to order.”

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The hon. Mr. K. SRINIVASA AYYANGAR :—"It was far from my intention to accuse the hon. Member of being capable of it."

Rai Bahadur T. M. NARASIMHACHARLU :—"In the opening remarks, Sir, the hon. the Law Member said that I was cutting jokes upon the Government."

The hon. the PRESIDENT :—"The hon. the Law Member would, I am sure, accept the assurance of the hon. Member to the contrary."

The hon. Mr. K. SRINIVASA AYYANGAR :—"Very seriously, Sir."

Rai Bahadur T. M. NARASIMHACHARLU :—"To come to my subject, the hon. the Law Member told us that the suggestions could not be carried out, and that being so, Sir,—"

The hon. Mr. K. SRINIVASA AYYANGAR :—"I did not say so. I said 'I will consider his suggestions very carefully'."

Rai Bahadur T. M. NARASIMHACHARLU :—"Very good. I am more than satisfied, Sir. I therefore withdraw my motion."

The motion was by leave withdrawn.

*Motion 463.*

Rao Bahadur A. S. KRISHNA RAO PANTULU :—"Mr. President, I beg to make the following motion :—

463. *To reduce the allotment of Rs. 35.67 lakhs made for jails by two lakhs.*

"This, I venture to submit, is a very practical proposition and the hon. the Law Member should have no hesitation in accepting this reduction in view of the general policy of retrenchment we have embarked upon since the commencement of this sitting on the 17th instant. It will be remembered that in the provision made for jails in the budget for 1922-23 there is an increase of about 9½ lakhs when compared with that of the revised estimates, and it is a serious matter for consideration whether, notwithstanding the various special circumstances which have happened during the current year, we can afford to pay such a large sum of money on this item of expenditure, and whether we can increase the expenditure to the extent of 9½ lakhs in the manner suggested. I have suggested that the sum be reduced by at least two lakhs of rupees, because I find that if some of the reforms which have been suggested, and which have also been indicated by the hon. the Law Member are to be carried out, we can hope to effect some retrenchment. While discussing the previous motion he was good enough to tell us that some measures of reform are under contemplation in the matter of the Mappilla prisoners. Let us hope that some good will come out of the investigation which has been promised and that as a result of it, it will be possible to effect savings in that direction.

"Regarding the release of political prisoners, which was suggested in the discussion of the previous motion, the hon. the Home Member only told us that it is too early. When that period comes, and when effect is given to the suggestion of this House, the release of political prisoners, after proper examination of each individual case and the circumstances attending upon his life and character, will result in retrenchment."

The hon. Sir LIONEL DAVIDSON :—"I never had any idea of directing a wholesale examination of the cases of people who have been committed



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to the prison by the order of competent courts. I did not wish to suggest in any way that any such examination by Government was possible."

Rao Bahadur A. S. KRISHNA RAO PANTULU:—"Not that I said that the hon. the Home Member made any such suggestion. A suggestion was made on behalf of this House that such an examination be made, and then the hon. the Home Member said that it was too early to think of any change of policy in this direction. But, Sir, I hope, and I am confident, that the hon. the Home Member and the whole Government will carefully consider the suggestions that have been made in this respect and that they will soon find it desirable to release all political prisoners. As I am asking for a reduction in the provision made for next year, there is a sufficiently long interval for the Government to be satisfied that there is no serious political danger in the country and that there is no necessity for continuing any of these repressive measures any longer. I am confident and I can assure the House that the state of the country will justify, and will even necessitate the release of all political prisoners. These are the two directions in which, I hope, it will be possible to effect some retrenchment.

"The other suggestion is that whatever view the Government may take, whether they differ from us or not, the question of the treatment of political prisoners which has been raised in the country must be solved in a satisfactory manner. We are not satisfied with the attitude of the Government in that respect. They say they make no difference among the prisoners and that the jail rules have to be carried out in all their rigour. But we find upon a careful examination of the systems prevailing in other countries that distinction has been made in their treatment. If the Government for any reason should find it difficult to improve the present method of treatment and to give political prisoners the food to which they are ordinarily accustomed I should find no justification whatsoever for the Government not permitting them to make their own arrangement for food. They will only relieve the Government of their duty. Suppose the Government make up their mind and allow them to make their own arrangements for food and give them all necessary facilities for this purpose, subject to such sanitary or medical restrictions as are necessary—I am confident that there will be some retrenchment in the matter of expenditure and that we can save some money. Therefore I should think that so far as my motion for the reduction of two lakhs is concerned and that in the budget provision for the next year, it will be quite possible to effect a saving to that extent. The Council will not be justified in voting for an increase of 9½ lakhs over the revised estimates. If the motion is accepted—I hope the Council will be good enough to accept it—they would make provision for reasonable increase of over 7 lakhs and they would also effect a saving of two lakhs to be utilized for other important objects we have in view."

The hon. Mr. K. SRINIVASA AYYANGAR:—"Mr. President, this is not a case where you can reduce the provision. The question is if you must have a certain number of prisoners; that does not depend upon the Government; so far as the Government are concerned they will be extremely pleased if there is to be a fall in the number of prisoners. The extra provision which has been made is entirely for the Mappilla prisoners and I have not taken into account any ordinary fluctuations in the jail population, any increase due to political crime or for other reasons. This is a special provision

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which I ask the House to make for the Mappilla prisoners and which can only be an estimate. Otherwise this year's jail budget is lower than last year's budget. In the last year under 'ordinary expenditure' the amount was Rs. 20.96 lakhs and the revised estimate was Rs. 21.12 lakhs. The budget for 1922-23 is 19.63 lakhs, I am omitting the provision made on account of this large influx of the Mappilla population. Under 'jail manufactures' in last year's budget the amount provided for was Rs. 7.42 lakhs. That was reduced in the revised budget to Rs. 6.3 lakhs as we were not able to purchase a khaki dyeing plant which was necessary for supplying the Police with khaki drill. This has been reinserted and we have got Rs. 7.28 lakhs. Thus, under the 'Jail expenditure—Jail manufactures' the expenditure now is Rs. 6.28 lakhs. This includes provision for the increased work which we expect to give to the Mappilla prisoners. Therefore, there is no means of reducing this expenditure.

“Supposing that you reduce the grant, what will happen is that some time in August we will have to come before the House and ask 5-15 p.m. for a larger sum by means of a supplementary demand for grant. We have budgeted for what we considered to be reasonable estimate of what will be required on account of the Mappilla prisoners coming into the jails. As I have already told the House, subject to conditions in suitable cases, it is our intention not to overpopulate the jails by Mappilla prisoners. Of course, we shall consider the question very carefully and my Friend Mr. Krishnan Nayar need not be in any nervous fever that we are going to let loose all the Mappilla prisoners on the country. But in spite of all that, seeing that there are about 35,000 cases entered against these persons—that is what I understand—it will be imprudent on our part not to anticipate a large increase of these Mappilla prisoners or to cut down our budget estimate under that head, more especially, as I said, as it will be necessary to see that this camp jail at Bellary is made suitable for any sudden influx we may have and also for the purpose of relieving the congestion in jails in other parts of the country. So, Sir, there is no principle in this motion as in the case of the motion for the reduction of Rs. 100 just now discussed. As I have already told the hon. Member Mr. Ramachandra Rao, we shall do everything that we can for the purpose of keeping down the jail population. We do not want to have a smaller budget provision and then come in again every time we may find it necessary. We have cut down the establishments as far as possible, or else we should have had three Superintendents and the necessary establishment in the camp jail, whereas we are now doing with one. In these circumstances, I do not think it would be proper to reduce the allotment by so much as two lakhs of rupees.”

Rao Bahadur A. S. KRISHNA RAO PANTULU :—“Sir, notwithstanding the information given by the hon. the Law Member, I think it quite desirable that we should vote for this reduction of two lakhs of rupees. It will be remembered that we have in this budget stopped such important and useful works as irrigation, or the expansion of education or the expansion of industries in directions in which we all wish that expenditure should be provided for. If, as has been pointed out by the hon. the Law Member we lock up something like nine lakhs of rupees for increased expenditure under jails, I am quite certain that we are doing injustice to various other useful objects which we all have at heart. If, for any reason, some tremendous accident



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should take place in the future and unfortunate circumstances should occur and there should arise the necessity for further increased expenditure, I know the Government have got the means at their disposal of providing for any such contingency. But why should we provide for over nine lakhs of rupees under this head alone and starve other heads of expenditure? So I request this House to at least reduce this expenditure by Rs. 2 lakhs so as to make it available for other useful objects of national concern which we all have at heart."

The hon. the PRESIDENT :—"Does the hon. the Law Member wish to say anything in reply?"

The hon. Mr. K. SRINIVASA AYYANGAR :—"Only one word, Sir. There is no question of option in this matter so far as we are concerned. It is a question of food or no food. It is a famine budget that we have provided for so far as the jails are concerned."

The motion was then put to the House and declared lost.

On the motion of Sriman Sasi Bhushana Rath Mahasayo, a poll was taken with the following result :—

*Ayes.*

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| 1. Mr. K. Adinarayana Reddi.               | 20. Rao Bahadur A. S. Krishna Rao Pantulu. |
| 2. Rao Bahadur P. C. Etirajulu Nayudu      | 21. Rai Bahadur T. M. Narasimhaacharu.     |
| 3. Rai Bahadur K. Gopalakrishnaaya.        | 22. Rao Bahadur C. V. S. Narasimha Raju.   |
| 4. Rao Bahadur T. Balaji Rao Nayudu.       | 23. Rao Sahib U. Rama Rao.                 |
| 5. Rao Bahadur T. A. Ramalinga Chettiyar.  | 24. Mr. A. Ranganatha Mudaliyar.           |
| 6. Mr. K. P. Gopala Menon.                 | 25. Sriman Sasi Bhushana Rath Mahasayo.    |
| 7. Mr. B. Muniswami Nayudu.                | 26. Mr. M. R. Seturatnam Ayyar.            |
| 8. Mr. M. Narayanaswami Reddi.             | 27. Mr. T. Sivasankaram Pillai.            |
| 9. Mr. C. Natesa Mudaliyar.                | 28. Mr. R. Srinivasa Ayyangar.             |
| 10. Mr. V. Pakkiriswami Pillai.            | 29. Mr. M. Suryanarayana Pantulu.          |
| 11. Rao Sahib A. Ramayya Punja.            | 30. Mr. T. Arumainatha Pillai.             |
| 12. Mr. K. Sitarama Reddi.                 | 31. Mr. A. D. M. Bavotti Sahib.            |
| 13. Mr. A. Subbarayudu.                    | 32. Khan Sahib Muhammad Abdur Rahim        |
| 14. Diwan Bahadur K. Suryanarayanamurti    | Khan Sahib.                                |
| Nayudu.                                    | 33. Munshi Muhammad Abdur-Rahman           |
| 15. Mr. A. Tangavelu Nayagar.              | Sahib Bahadur.                             |
| 16. Mr. V. C. Vellingiri Goundar.          | 34. Mr. Saiyid Diwan Abdul Razzaq Sahib.   |
| 17. Mr. C. Venkata Ranga Reddi.            | 35. Mr. G. Vandanam.                       |
| 18. Diwan Bahadur R. Venkataratnam Nayudu. | 36. Rao Sahib P. Venkatarangayya.          |
| 19. Diwan Bahadur M. Ramachandra Rao       |  |
| Pantulu.                                   |  |

*Noes.*

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| 1. The hon. Sir Lionel Davidson.         | 11. Mr. R. Littlehailes.                  |
| 2. The hon. Sir Charles Todhunter.       | 12. Mr. E. Periyannayagam.                |
| 3. The hon. Khan Bahadur Muhammad        | 13. Mr. R. K. Shanmukham Chettiyar.       |
| Habib-ul-lah Sahib Bahadur.              | 14. Mr. A. Ramaswami Mudaliyar.           |
| 4. The hon. Mr. K. Srinivasa Ayyangar.   | 15. Mr. S. R. Y. Ankinedu Prasad Bahadur. |
| 5. The hon. Mr. P. Ramarayaningar.       | 16. Dr. M. Appalarasayya Nayudu.          |
| 6. The hon. Rai Bahadur K. Venkata Reddi | 17. Mr. R. Appaswami Nayudu.              |
| Nayudu.                                  | 18. Diwan Bahadur M. Krishnan Nayar.      |
| 7. The hon. Rao Bahadur A. P. Patro.     | 19. Mr. S. Arpudaswami Udayar.            |
| 8. Mr. T. E. Moir.                       | 20. The Zamindar of Mandasa.              |
| 9. Mr. F. J. Richards.                   | 21. The Rev. W. Meston.                   |
| 10. Mr. C. W. E. Cotton.                 |   |

The motion was carried, 36 having voted for and 21 against.

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*Motion 464.*

The following motion which stood in the name of Dr. P. Subbarayan was not moved :—

464. *To reduce the allotment of Rs. 35·67 lakhs for jails by Rs. 100.*

The hon. the PRESIDENT :—“I will now put the demand under XII. Jails. The original demand was Rs. 35·67 lakhs. Deducting the sum of Rs. 2 lakhs the reduction which has now been voted, the grant to be made will be of Rs. 33·67 lakhs.”

The grant of Rs. 33·67 lakhs was accordingly made.

The House then adjourned at 5-26 p.m. to meet again at 11 a.m. on Wednesday the 22nd March 1922.

L. D. SWAMIKANNU,  
*Secretary to the Legislative Council.*

